

Interpretation

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Review Essay

John Marini, *Unmasking the Administrative State: The Crisis of American Politics in the Twenty-First Century*. Edited by Ken Masugi. New York: Encounter Books, 2019, 337 pp., \$27.99 (hardcover)

The Trump Presidency and the Administrative State

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That Progressives across the political spectrum oppose Donald Trump's presidency should come as no surprise to anyone. Of greater interest is the deep division over Trump among conservatives.

One might find it surprising that some conservatives, especially the "Never Trumpers," still vehemently oppose Trump, given the Democrats' deep opposition to conservatism and their overwhelming support in the media, in universities, and in the world of entertainment and popular culture. One might find it equally surprising that so many conservatives back Trump, given his deeply problematic flaws of character and intellect. This division of opinion over whether President Trump should be supported or opposed by conservatives has been of deep interest to us and provides the motivation for the inquiry from which the present review essay springs. Conservatives wish to conserve the American regime. Is President Trump

a force for conserving that regime, over and against the Progressive view that the regime is essentially flawed and must be radically altered? Or is his presidency another element in the forces pressing towards that radical alteration? This book provides an impressive argument for the former of these two alternative views.

John Marini is a professor of political science at University of Nevada, Reno, and a fellow at the Claremont Institute. He has published numerous books and articles, nearly all of which deal with issues in American government and politics. Like many of his Claremont colleagues, such as Michael Anton, Steve Hayward, Larry Arnn, Charles Kesler, and Edward Erler, he is a firm supporter of the Trump administration. His book *Unmasking the Administrative State*, a collection of essays (ranging in time of authorship from the 1980s to the present) skillfully coedited by Ken Masugi (who also provides concise introductions to the book's three parts), is where Marini makes his most complete, most comprehensive case for that support in all of his writings. Perhaps most noteworthy, the book includes two discussions of the Trump presidency, but its subject matter quite transcends the politics of the current time.

Although Marini does not dwell on Trump's rather glaring character flaws, it is clear that he finds him to be a pretty ordinary man in many respects. He would probably even agree with Kesler's depiction of Trump as a morally rather dubious figure (36). Marini certainly does not see in him a man of outstanding intellect with a deep understanding of American politics, government, history, or the Constitution. In fact, he explicitly says (31, 32, 283) that it is necessary for other, much more learned individuals to articulate fully the meaning of Trump's antiestablishment political stance. What he does credit Trump with is generally sound political instincts or intuitions. He heartily approves of items on the president's political agenda such as downsizing and decentralizing administration and restoring constitutional rule (which is how he interprets the best-known Trump campaign slogan, "Make America Great Again" [38], and probably how he would interpret the slogan "Drain the Swamp"); loosening the stranglehold of political correctness on political thought and speech (31, 278–79); challenging the rule of experts, with their theoretical, social-scientific way of formulating problems and policies, by "[going] directly to the people" and addressing their concerns in a much older language, the language of common sense (34, 35, 282); seeking to unify the country by appealing to all American citizens as citizens rather than as members of different minority-interest groups, as practitioners of

identity politics have done (278–79, 280–81); and securing America’s borders and stemming the tide of illegal immigration (key elements in Trump’s “America First” approach to foreign policy) (279).

Yet what chiefly lends Marini’s case for the Trump presidency its exceptional power is his analysis of that massive fact (clearly delineated in the first part of *Unmasking*) of contemporary American political life in opposition to which Trump has, in his view, firmly set himself: the rise and consolidation of the administrative state. This phenomenon has been the central theme of Marini’s research, writings, and talks over most of his academic life. His coolly trenchant analysis of it in *Unmasking* is impressive in its depth and scope, all the more so given that the entire text, including appendices, endnotes, and index, numbers a mere 337 pages. And although the essays are framed by contemporary political debates, the heart of the book is a sustained inquiry into the nature of the American regime.

The fifteen chapters may seem at first glance rather loosely related, like the branches of a tree shooting out from the trunk in different directions. In reality, however, the book as a whole is quite well organized and has a clear overall sense of direction. As the titles of its main parts suggest—“The Triumph of the Administrative State over the Constitution,” “The Administrative State in Practice: Congress as the Enabler,” and “Theory and History of the Administrative State: The ‘New Despotism’ Replaces Self-Government”—that direction is one of ascent, from particular to general, that is to say, from the particular events and trends of the present, through certain general characteristics of those particulars, to the underlying theoretical principles or issues and larger historical developments. Moreover, that pattern of ascent is sometimes replicated in the individual essays themselves, without thereby diminishing the foregoing differences in emphasis among the book’s three parts. Moving in a thoughtful, honest, disciplined, empirical, “bottom-up” fashion from particulars to universals, or from “facts on the ground” to plausible theories about those facts, is the commonsense way to theorize about the things around us: it is certainly much better calculated to foster intellectual moderation and sound judgment than the reverse, “top-down” approach of moving from pre-given theories to facts, which characterizes much contemporary theorizing. Marini’s book is thus traditional political science at its best. Here we can speak only to some of the key points in his rich, highly thought-provoking and illuminating discussion.

Drawing on a wide range of books and articles by constitutional scholars, historians, philosophers and political theorists, journalists, and political

leaders, Marini argues that the administrative state violates the principles of the American Constitution in a way that threatens the liberty of American citizens. The overall argument, most fully developed in the central section of *Unmasking* and further deepened in the final one, can be summarized as follows. One of the basic principles of the Constitution as conceived by the Founders is the separation of powers, with each branch of government “minding its own business” as defined by the Constitution. Each branch should stay in its own lane, except in those areas where the Constitution provides for a sharing of powers. Most important, in Marini’s view, there is no role for Congress in the administration of the law apart from administrative oversight.

With the administrative state, that separation of powers as originally understood is tacitly subverted; it still exists as a legal formality while its substance is slowly disintegrating. A new, fourth branch of government emerges, the federal bureaucracy, which arrogates ever-more political power to itself, perhaps to the point of becoming the ruling stratum. As this federal bureaucracy, consisting of powerful unelected officials in both government departments and ever-expanding federal agencies, grows in power and independence, it becomes harder and harder to hold it accountable, not only to the voting citizenry, but also to the president, Congress, and even to the judicial branch of government. The two political branches, and the judicial branch all the way up to the Supreme Court, are gradually reduced to playing handmaiden to the federal bureaucracy, each enacting its subservience in a different way. Congress passes laws that are not really laws, because they are not well-defined rules but only “unfinished” or vague policy prescriptions, directions, or aspirations; this has the effect of empowering bureaucrats to “complete” or creatively interpret them when devising regulations frequently very loosely related to them (76, 205–6). As a consequence, according to Marini, it is not the members of Congress but administrative agencies like the EPA, OSHA, and CPSC (24) that are now the real legislators (in a debased sense of the word, since administrative regulation is not the same as legislation). Congress has of course striven to maintain a grip on these agencies through its oversight committees, control over appropriations and agency budgets, and so forth. But as Marini argues, this leads to ever-deeper entanglement in the everyday business of administration, which cannot but compromise a legislative body’s own proper law-making and deliberative functions. In a word, the American Congress “has become...an administrative congress” (220). No less important, this same entanglement undermines the independence and proper functioning of the executive branch, and therewith “a president’s ability to govern in the national interest” (204, 219). Marini reminds us that

thinkers as diverse as Locke, Montesquieu, Hamilton, and Schmitt all agreed that control by legislative bodies of the executive function of government is inimical to political liberty (216–21).

On the judicial front, the courts are increasingly refraining from exercising their constitutionally defined power of judicial review to challenge both Congress's failure to exercise its constitutionally defined power of making true laws and the perverting usurpation of Congress's law-making power by these administrative agencies. On the contrary, the courts now tend to allow congressional delegation of regulatory power, coupled with wide discretion in its exercise (199), to such bureaucratic bodies, on the premise that it is rational to defer to their superior, allegedly scientifically informed expertise in administration and hence to let them do their job (74–77). Concomitantly, the courts increasingly confine themselves to adjudicating interagency disputes or disputes between agencies and private interests.

Although these agencies technically fall within the jurisdiction of the executive branch headed up by the Office of the President, owing partly to the increasing size and complexity of the bureaucracy and partly to the increasingly specialized and arcane scientific “knowledge” deployed by bureaucrats, it becomes harder and harder for the president to maintain adequate control over them (75, 128). Moreover, whenever any president has attempted to remedy the situation—for instance, by substantially diminishing the size and power of the bureaucracy, as in the case of Republican presidents Richard Nixon and (to a lesser extent) Ronald Reagan—a Democratically controlled Congress, especially the House of Representatives, has staunchly and effectively bucked him, encountering little resistance from the Republican side of the aisle. (Democratic presidents since FDR, be it noted, have generally been a good deal less troubled by the growth of the administrative state.) All these developments have the cumulative effect of severely disrupting the functioning of the separation of powers as originally conceived.

To make matters worse, the Washington bureaucracy has become adept at playing Congress and the president against one another any time either undertakes to curb the bureaucracy's growing autonomy and power. To an ever-increasing degree the federal bureaucracy is able to step in between the ordinary citizenry on one hand, and the president and Congress on the other, in effect undermining the constitutional principle of rule by consent of the ruled. Political parties, increasingly at the beck and call of nationally organized private interests with influence in the halls of Congress and the bureaucracy,

have ceased to mediate between the people and the government the way they used to (33). Politics is steadily giving ground to autonomous administration.

Marini invokes Tocqueville's distinction between administrative and governmental centralization (elaborated by the research of constitutional scholar John Wetters and others) to shed further light on the nature of this entire development (197). The premise appears to be that Tocqueville's treatment of this issue is essentially in line with the Founders' political thought (198). For Tocqueville as Marini understands him, government properly so called is concerned with the general or national, administration with the particular or local. Centralization of government obtains when government of an entire nation is concentrated "in the same place or under the same directing power" and is conducted with a view to the national public interest, in conformity with a set of general, nationally applicable laws and policies. Centralization of administration, on the other hand, obtains when legislation and policy decisions regarding all of a nation's affairs, national as well as local, are entirely or mostly administered at the national level and by the same central "directing power" (157–58, 197–99). One of the unique and good things in the America Tocqueville saw and wrote about was that its political life was characterized by centralization of government at the national level coupled with *decentralization* of administration, its devolution to the counties and townships (and this to an extent unimaginable in European countries). From Tocqueville's perspective, shared by Marini, centralization of government at the national level is good because it means that the entire country is governed in the same way according to one and the same set of rationally defensible general principles, that is, impartially and not arbitrarily. As Marini also recognizes, on this point the Founders would have agreed with Tocqueville, to the extent that they wished to see Americans governed according to certain universal principles, in their case the principles enunciated in the Declaration of Independence (198).

Administration is a different story. As intimated earlier, in contrast to government, administration involves doing particular things in, and with an eye to the particular requirements of, particular social circumstances, or as Marini following Tocqueville puts it, taking charge of the "private and particular details of social existence" (154, 171, 197–98). Where possible and desirable it should be carried out at the local level, by individual citizens actively involved in conducting the common affairs of their communities. That is one important reason Tocqueville was favorably disposed to participatory democracy at the local level (which he took to be the limit

of administrative decentralization) (152, 198)¹—so much so, in fact, that he was willing to countenance a relatively high degree of inefficiency for its sake (152–53). Take, for instance, same-sex marriage. Tocqueville holds that regulation of morals and manners most often falls within the domain of local government. Different parts of the country have different moral sensibilities

¹ Here it is worth bringing up Marini's point that on both the theoretical and the practical level it is more difficult to distinguish clearly between governmental and administrative centralization than the present discussion might lead one to think, and that Tocqueville himself acknowledges as much: "There are some points where these two sorts of centralization become confused" (quoted in Marini, 157).

First, a practical difficulty. Inasmuch as government is concerned with general or national interests, it is, we are told, mostly properly exercised at the national level, and inasmuch as administration is concerned with particular or local interests, it is mostly properly exercised at the local level. Yet "how," says Marini, "does one distinguish national from local interests? There cannot be a principle to regulate this distinction that would not succumb to necessity—particularly war" (157). In the words of Marvin Zetterbaum, "In such a case, the distinction between national and local becomes arbitrary and meaningless" (quoted in Marini, 158), and administration must be centralized at the national level.

Second, a conceptual or theoretical difficulty. Some commentators maintain that by "administration" Tocqueville means not execution but political rule at the *local* level, as distinguished from government, which is political rule at the *national* level. Notable among them are Delba Winthrop and Martin Diamond: see Winthrop, "Tocqueville on Federalism," *Publius: The Journal of Federalism* 6, no. 3 (1976): 95; Diamond, "The Ends of Federalism," *Publius* 3, no. 2 (1973): 138–42. As Diamond puts it (140), Tocqueville's distinction between government and administration has less to do with "different kinds of political processes" or activities (which is what conceiving administration in terms of execution presupposes) than it does with the "different kinds of things or subject matter" appropriate to the two different sorts of political rule. John A. Wettergreen and, following him, Marini are aware that this interpretation is suggested by, among other passages in *Democracy*, Tocqueville's explicit statement of the distinction between governmental and administrative centralization that Marini quotes (157), according to which government is properly concerned with general and hence national affairs, administration with particular and hence local affairs.

The problem is that Tocqueville appears *also* at times to use the term "administration" in the sense of *execution* (a "kind of political process," in Diamond's words), as when he makes a Hayekian-seeming argument about the structural administrative deficiency of centralized administration (more on this below). This seems to be the view of Wettergreen and, following him, Marini (though neither of them mentions the parallel with Hayek). As our analysis makes clear, we side with Wettergreen and Marini in thinking that Tocqueville trades on both meanings of "administration." However, in our estimation, Marini could have been clearer on this point. For their accounts of Tocqueville on the issue of governmental vs. administrative centralization, see J. A. Wettergreen, "Constitutional Problems of American Bureaucracy, beginning with *I.N.S. v. Chada*," *Political Communication* 9, no. 2 (1992): 96–98; and Marini, *Unmasking*, 157–61, 171–75, 196–99.

Notwithstanding that the distinction is complex and fraught with ambiguity, Tocqueville, Marini argues, judged it necessary to make some such distinction between governmental and administrative centralization in broad terms on a theoretical plane, because he recognized its usefulness for democratic political practice. The statesmen of a democracy could take their bearings by it when seeking to determine how much "administration" to devolve to local governments, in the interest of bolstering the effectual liberty of ordinary citizens and thereby "forestall[ing] the worst aspects of democratic life—the tendency to administrative despotism" (161).

We have attempted here to present Marini's reading of Tocqueville's distinction between administrative and governmental centralization as clearly and simply as possible without doing injustice to its complexities and ambiguities. Further examination of this rather thorny political-theoretical issue would exceed the scope of the present essay.

that should be given a free rein, as far as this is consistent with the fundamental principles of the Constitution. Since same-sex marriage is a moral matter, it should be left to state or local governments to deal with, each according to its grasp of the moral condition and requirements of its part of the country, so long as people's constitutionally enshrined rights and liberties are not violated thereby. Such, at any rate, would likely be Tocqueville's basic position on the issue, with which Marini (and the Founders as he interprets them) would probably concur.

Applying this Tocquevillean line of thinking to the American example, Marini concludes that centralization of administration at the national level is morally and politically harmful, and he provides a number of reasons for his conclusion. To begin with, precisely because of the aforementioned element of particularity inherent in administration, combined with the unlimited variety of particular interests and circumstances in a large nation, it is simply not possible for a central administrative power at the national level to administer adequately and well, without partiality and arbitrariness, all of the affairs, national as well as local, of the entire nation (197). As Marini says, quoting Tocqueville along the way:

Nature is hostile to uniformity. Nonetheless, a central [administrative] power attempts to oversee all the details of the life of a nation. But, such a power, Tocqueville asserted, "however learned one imagines it, cannot gather to itself alone all the details of the life of a great people." It cannot do so "because such a work exceeds human strength.... To force all men to march in the same march, toward the same object—that is the human idea. To introduce variety into actions, but to combine them in a manner so that all actions lead by a thousand diverse ways toward the accomplishment of one great design—that is a divine idea." (171–72)

Marini also quotes Tocqueville's statement that "when [the central power] attempts unaided to create and operate so much complicated machinery, it must be satisfied with very imperfect results or exhaust itself in futile efforts" (197).

Marini is surely aware that these and other such passages he cites from *Democracy in America* prefigure the classic Hayekian argument against central planning and command economies (note his quotation from Ludwig von Mises's *Bureaucracy* at 277): central planning, such as was attempted in the Soviet Union's politicized command economy, is bound to fail. The main reason is that no central planning authority operating on such a large scale can possibly have at its disposal and wield in a timely enough fashion, literally from moment to moment, the mountains of detailed information it

would need to administer its central plan successfully—that is, consistently and coherently, conformably to the central government’s universal principles and general laws, yet without prejudice to any part of the country, and without waste and inefficiency. For Hayek as for Tocqueville, this is a structural problem that is simply not susceptible of solution, not even by centralized administrations staffed with enlightened and public-spirited individuals.

To put the point somewhat differently, the centralization of administration is well-nigh incompatible with the centralization of government, for, owing to the element of particularity inherent in administration itself, a centralized administration must sooner or later run athwart the element of universality inherent in a centralized government. Consider the example of education. Given the vastly different economies, religions, ethnic groups, and political tendencies that spanned the United States, it is understandable that the Founders (with whom Tocqueville concurred) did not include education in the enumerated powers of the national government. Each state needs to design and administer a system of education that fits its particular circumstances. To have a large, centrally administered system, overseen by a federal Department of Education, has had momentous consequences, not the least of which is to create a never-ending source of dissatisfaction with Washington. As Tocqueville would probably have agreed, erecting such a system would be tantamount to adopting a one-size-fits-all approach, which, like it or not, would inevitably suit certain parts of the country better than the rest, making especially the latter resent it as an ill-conceived and unjust intrusion (unjust because prejudicial, in effect if not also in intention). As Marini emphatically states, “**Centralization of administration almost requires decentralization of government**” (203).

True, one can easily imagine a scenario in which the people, voting in a national election, elect a president who had campaigned on the promise of legislation to create national test standards, administered by the Department of Education. Marini would probably retort that the people would be wrong in this respect, for two reasons: first, such legislation would be unconstitutional as exceeding the constitutionally delimited powers of the national government; second, it would be beset by the very difficulties and failings attending administrative centralization discussed above.

No less important, centralization of administration deprives the citizens of the political liberty that finds its fullest expression in local self-rule; it thereby enervates the citizens, and renders them passive and dependent (152, 154). Of course, as Marini believes the Founders would have argued,

local self-rule is in principle eminently desirable, so long as it is conducted in a manner consistent with the underlying principles of the American Constitution, such as “that all men are created equal” (198). One might add, in the spirit of Marini’s overall argument, that administrative decentralization would help to preserve and promote the multiplicity of interests that the Founders viewed as conducive to liberty. But again, such diversity is necessarily bounded by the Constitution, and the states are not simply sovereign entities in areas left to their jurisdiction.

What is more, in the present condition of administrative centralization, the federal bureaucracy and members of Congress (especially the chairs of congressional oversight committees) become magnets for lobbyists who make big campaign contributions and so purchase the precious interview time of congressmen; they represent private interests such as giant corporations, whose aim is to shape agency rule-making in line with their private advantage. All this lobbying activity obstructs the pursuit of the common good through the electoral process as originally conceived: a process that brings to bear on government the people’s passions and whims honed into the reasoned choices of its elected representatives (210). Again, so much for the Founders’ idea of rule by consent of the ruled. Instead of being subordinate to the people, the state is steadily but unrelentingly subordinating the people to the state.

Marini argues persuasively that from the Founders’ point of view, the emergence of the administrative state represents a grave threat to liberty, and even a nascent form of lawless tyranny (193). In the ninth and tenth chapters of the book, the two essays devoted to close analysis of Tocqueville’s new political science, the aristocratic French thinker’s dire warnings about creeping soft despotism are presented as coming true.

In the third part of *Unmasking*, Marini ascends to a close analysis of the theoretical and broader historical issues which the massive fact of the administrative state raises. According to him, what made possible the advent of the administrative state and its characteristic practices was the fundamental shift in perspective from the Founders’ understanding of a constitutional democratic republic, with limited government, to the late nineteenth-century Progressive conception of a democracy governed by an unlimited state.

For the Founders as Marini represents them, the principles of the American republic, which were first enunciated in the Declaration of Independence, derived from a general teaching regarding natural right and natural or moral

law. (According to Marini, who concurs with Jaffa on this point, one of the major limitations of Tocqueville's penetrating analysis of American democracy is his failure to appreciate the significance of the philosophy of natural right, as adumbrated in the Declaration of Independence and elaborated in other Founding documents, for an adequate understanding of the American Constitution.) It is a teaching that brings together the essential truth of the Western philosophical tradition from Aristotle to Locke and Montesquieu, with (medieval) Christian religion and theology. While acknowledging the irresolvable tension between reason and revelation, the Founders yet recognized that the principles of morality issuing from the philosophical tradition were the same as those issuing from Christian revealed and natural theology (256–57, 329n66): for them, classical natural right, correctly understood both in principle and in relation to their times and circumstances, incorporated or was joined to elements of what came to be known as Christian moral or natural law. That is one key reason why they, in stark contrast to some of their more radical Enlightenment forebears, would not have welcomed religion's eventual extinction, even though they argued for enshrining in the American Constitution the separation of church and state at the national level; for that matter, in their view (and again, this is Marini's reading of them) the separation would serve to maintain the position of religion (92–96).

That political-philosophical teaching, as articulated in all of its basic moral and political principles—to wit, the moral and political equality of all human beings, including their equal possession of certain inalienable rights; rule by consent of the ruled; the social compact as the ultimate origin of all legitimate government; and so forth—was regarded by the Founders as a transhistorical truth which unassisted “metaphysical reason” had made a permanent human possession and was therefore beyond serious dispute. Yet theory is one thing, and practice another. As the Founders well understood, given the infinite variability of particular circumstances, it is impossible to deduce from any abstract principles what exactly is the best course of action in any particular situation. For practical purposes, another kind of excellence is needed, which the ancients identified as practical wisdom or prudence. And although prudence derives a measure of guidance from the general principles of morality and political well-being, precisely because its findings are not logically deducible from those principles, it is ultimately autonomous: it has always to find its own way amid the shoals of injustice and folly. But politics is an unbroken string of such practical situations, one moreover in which, human nature being what it is—erotic, thumotic, fallible—disputes over the optimal course of action in any one of them are bound to arise. Politics

therefore calls for prudence of the highest order to resolve such disputes in the common interest; and the right form of government is one that, in addition to securing the natural rights and liberties of all human beings, facilitates and encourages the exercise of prudence by elected officials in framing and executing laws and policies, and by ordinary citizens in electing virtuous and prudent individuals to positions of government. According to Marini, who again follows Jaffa on this point (21, 253), the American Constitution as originally conceived provided for a form of government that presupposed and actively affirmed the traditional understanding of the distinction between theoretical and practical reason, and hence the necessity and autonomy of each in its own sphere: theoretical in the eternal, practical in the temporal.

After the Civil War, the American societal landscape was radically transformed by such large-scale modernizing social forces as industrialization, urbanization, and population growth (partly owing to increases in immigration). This “material” transformation coincided with the rise of new currents of political thought, the most important of which from Marini’s perspective was Progressivism. This ideology was first elaborated by such leading intellectuals as Woodrow Wilson, Herbert Croly, Walter Lippmann, and John Dewey. In the twentieth century it gradually came to dominate American thinking about politics, and then, during and after FDR’s presidency, American politics itself, its chief political manifestation being what Marini calls “the administrative state” (although he often also refers to it as the “welfare state,” the “rational state,” the “bureaucratic state,” the “policymaking state,” or the “regulatory state”).

In its initial form Progressivism was a curious blend of Hegel, Darwin, and Comte, of which American Pragmatism was an influential offshoot. Nevertheless, one of the controlling ideas in all varieties of Progressivism, including its postmodern version, is historicism. Because historicism is by definition incompatible with the very idea of natural right, Progressives from the outset rejected the natural right teaching underpinning the American Constitution. For that teaching they substituted a philosophy of History in which History takes the place of Nature as the ultimate ground of all things human, and the general will replaces natural right and natural law (together with the “metaphysical reason” formerly alleged to have discovered it) and/or divine law as the ground of morality. As Rousseau (whose thought here was taken up by Kant, Fichte, and Hegel) had already divined, morality turns out to be indistinguishable from the complete autonomy (self-determination) of a rationally universalizable will, or the will willing itself uniformly throughout

the entire citizen-body. Since the state is, as Hegel taught, the objective embodiment of the general will thus understood² in history, it now becomes the source of all human rights; and as the state “progresses” over time, so too do human rights grow and expand. Because there are no external, naturally or divinely ordained, constraints on the general will, the state must be both national and unlimited in scope. The Progressives took that to mean that it was the responsibility of the state to bring about equality of condition and well-being for all of its citizens in all areas of life. (*Pace* the Founders, and essentially in agreement with Rousseau and the German Idealists, they tended to define freedom and human “rights” in a way that entailed equality of condition or results.) To make progress in fulfilling its responsibility, the state had to turn itself into the welfare state, with the power to intervene in all economic, moral, and cultural affairs—matters originally thought to fall primarily within the domain of civil society or local government. The version of the Religion of Humanity articulated by Herbert Croly and others, accompanied by a rewriting of the American past—the Founding, the Civil War, etc.—in conformity with the bedrock tenets of the Progressive philosophy of History, was to be the new ideology or “public philosophy” guiding the entire enterprise (241–43, 280).

Further in keeping with their historicism, the Progressives held that the Constitution as understood by the framers had been rendered obsolete by the modernization of American society. As Dewey forcefully argued, new social problems and challenges had emerged which the framers could not have foreseen and never had to face, and which necessitated an entirely new form of government. The old form, based on the separation of powers, and allowing plenty of scope for government and administration of regional and local affairs at the state and municipal levels, would be replaced by one that was much more centralized and unified under a strong executive branch headed up by a “rhetorical presidency,” with the other two branches subordinating themselves to the executive. The executive branch would also comprise a large bureaucracy, as far as possible staffed by individuals with university degrees in the natural and social sciences, whose job was to execute or administer the policies and laws of the president and Congress. Like the new natural science on which it modeled itself, the new social science rested on the fact-value distinction, and as Max Weber stipulated, its task was to be two-fold: to investigate normatively neutral causal connections at work in society, and to

² In the *Philosophy of History*, Hegel speaks of this general will as a manifestation of the World-Spirit and its intrinsic Idea of Freedom.

clarify the means-ends relations that follow logically from those causal connections. This entailed the substitution of the distinction between theoretical and applied science, both of which could be highly esoteric, for the traditional distinction between theoretical and practical wisdom, which could be readily, albeit often not easily, expressed and comprehended in the language of everyday life. Arcane knowledge of means-ends relations in the form of applied science would preempt commonsense practical wisdom or prudence in the formulation and execution of laws and public policies (288). (Consider, for example, economic policy issues such as whether to raise, maintain, or lower current federal income tax rates or Federal Reserve interest rates. Much of the debate on the technical aspects of such issues is framed by professional economists using sophisticated mathematical models and concepts which exceed the grasp of even most social scientists, not to mention lay citizens. Nothing comparable to this extra-ordinary, scientific form of language and “practical knowledge” is found in Aristotelian “social science.”)³ Government by the people was hence to be replaced by the rule of scientific-technical experts, a kind of technocracy or Comtean sociocracy. In line with the will of the people, of course—though on the understanding that the will of the people would itself be shaped by the scientifically informed religious-humanist rhetoric of a president aided and abetted by a Progressive-minded ruling intellectual elite, so as to fall in line with the will of such a president and ruling elite (70).

In recent decades, Marini informs us, a more dogmatic, irrationalist and relativist, postmodern version of Progressivism has taken hold, especially in academia but also, and even more confusedly, in the mainstream media. William James and John Dewey have given way to Richard Rorty and Sanford Levinson. This new, postmodern Progressivism has sought to marry a still more leftist and statist form of old-style Progressivist egalitarianism to an

³ How many of us understand such arcane technical, scientific concepts wielded by economic theoreticians or financial analysts as the production-possibilities frontier, government debt to GDP ratio, fiscal policy multipliers, shifts in aggregate supply-and-demand schedules, rational utility maximization, the law of diminishing marginal productivity, elastic currency, market equilibrium, macro-deleveraging, demand management, quantitative easing, or monetary policy transition mechanism; or concepts in econometrics such as semiparametric regression and stochastic dominance with covariates, or even more basic concepts in statistics such as standard deviation and regression coefficient? Yet, from the perspective of Marini’s contemporary government economist, it is difficult if not impossible to conceive how we lay citizens can reasonably take a position on any controversial economic policy issue when the subtleties of its scientific aspects elude us. Hence the Progressives’ predilection for the rule of scientific experts. Of course, Progressives conveniently overlook the inconvenient implications of the fact that the supposed scientific experts themselves often vigorously disagree with one another even over the strictly technical, scientific aspects of public policy issues.

extreme, misologic strain of identity politics (for which there is, however, some precedent in the original Progressivist advocacy of “group rights”). Anchored in a radical historicist analysis of American society and history that assigns explanatory priority to concepts of race, gender, and class, and sees everywhere only signs and symptoms of racism, sexism, and classism, identity politics—coupled with political correctness—presents itself as the correction of these ills of American society (30–32, 122–24, 280–81). If individual rights such as freedom of thought and speech, which were originally considered “inalienable,” get sidelined in the process, so be it: “political correctness” in thought and speech must now take precedence over freedom thereof. Provided that they are stacked with activist, Progressive-minded judges, the higher courts of America, including the Supreme Court, can be counted on to creatively interpret the Constitution so as to secure that result: for this purpose such judges would naturally deploy the historicist, “living constitution” approach to constitutional interpretation enunciated by Woodrow Wilson (295–96, 298). The new Progressivism is also continuous with the old in regarding the administrative state as a necessary means of remaking American society in the light of its utopian conception of “social justice” and delivering the goods to the people, who are henceforth to rest firmly and trustingly in its caring, nurturing grip. Such, according to Marini, is the ideological aspect of the nascent tyrannical tendency in American politics, of which the growing authority and autonomy of the administrative state is the practical aspect.

Of course, the Progressives do not realize that, much like the Stalinist philosopher-become-Eurocrat Alexandre Kojève, who advocated the “universal and homogeneous [administrative] state,” they are promoting a potent, modern form of tyranny (6–7). As Marini makes clear in his essay on the Strauss-Kojève debate and elsewhere in the book, such self-knowledge cannot but elude them. The theory of History as the story of Progress to which they subscribe (often rather thoughtlessly or, in the case of postmodernists, in contradiction to their moral relativism) conceives society as evolving towards ever higher levels of freedom, equality, and welfare, and thus away from the various forms of bondage characteristic of its past. Concomitantly, their historicism repudiates the theoretical or “metaphysical reason” which, according to the Founders, enabled philosophy to discover natural right in the first place and would therefore make possible such self-knowledge. Furthermore, the very idea of tyranny falls outside the purview of the value-free social science in which they are heavily invested, even though nothing could agitate them more than the tyranny which they vehemently insist any form of

inequality surely represents. In sum, Progressives perceive and feel no need to try to recover the tradition of political philosophy which fed into the Founding. For them, that tradition, together with the original understanding of the American Constitution stemming from it, is simply dead.

As Marini sees it, the situation is made worse by the fact that most Republicans and so-called conservatives are no more clear-sighted about the nature of the administrative state and its threat to liberty than their Progressive adversaries (10, 33, 38, 275). They tend to define the basic political problem in essentially economic, libertarian terms (34): government today is oversized and inefficient; its excessive intervention in the economy through deficit spending, high taxes, overregulation, and the like puts too many constraints on private enterprise and therewith risks stifling the creativity required for economic growth and prosperity. Their quarrels with contemporary liberals and Progressives are mostly over the size and reach of government, and to a remarkable degree they share with them ignorance of and indifference to the Founders' understanding of the Constitution in terms of the theoretical doctrine of natural right. They too have drunk deeply from the poisoned wells of historicism and positivism; for them, as for Progressives, history has consigned both metaphysics and the idea of natural right to its dustbin, and instrumental reason qua applied science is given priority over commonsense prudence in the making of public policy (274–75, 280).

What, then, does Marini think must and can be done to reverse course? In his final chapter, Marini addresses this question. To begin with, President Trump must continue to mobilize the people and popular opinion around an agenda of retrieving the classical liberal political theory of the American Founding and restoring constitutional government as originally conceived. (This, suggests Marini, is the true meaning of American conservatism in the present and for the foreseeable future [281, 228].) Though the president has made a good beginning, he undoubtedly will need a great deal of help, from both Republicans across the country and leading conservative intellectuals, who must somehow bring themselves to share his agenda on the theoretical as well as the political plane. Conservative intellectuals in particular must step up the effort to revive classical political philosophy's common sense-based approach to thinking and speaking about political phenomena, which also means freeing political thought and speech from all historicist and post-modernist obfuscation as well as reliance on arcane social science theories (275, 291). (That effort is, and will continue to be, a crucial element of liberal education in America [10].) It is only through a comprehensively and clearly

articulated, well-coordinated, concerted, nation-wide, explicitly politically partisan strategy of counterthrust against Progressives in all spheres of government and society, that such an undertaking can have any chance of success. The hope of success is not unreasonable, given that so many people in the country sense, in a vaguely commonsensical way, that something is seriously amiss in DC, as the results of the 2016 elections show (276). But as Marini readily acknowledges, there will be no easy victories. Perceiving the threat to their hold on power emanating from the “deplorables” and their man in the White House, Progressives in government, academia, and the media will do anything possible—such as criminalizing partisan political differences (142–43) and selective, tactically shrewd, “drip-drip,” illegal leaking to sympathetic news outlets by federal bureaucrats that goes unpunished (145)—to discredit and delegitimize the Trump presidency, for the purpose of derailing that agenda. That is exactly what happened to Nixon, argues Marini in his thought-provoking essay on the role of the federal bureaucracy in Watergate. Whatever the strategy and tactics of the conservatives who support Trump, they must always keep in mind the intransigence of their opponents.

Marini’s book raises a host of interesting questions. One wonders, for example, about the growing fusion between the legislative branch of government and the bureaucracy. What effect does this new relationship have on the political parties and their ability to bring some coherence to debates and deliberations of Congress? One wonders whether it is realistic to think there is a road back to the constitutional order. Are present-day global developments such as pandemics and increasing political and economic competition with technocratic China forcing America to continue transforming itself into an administrative state? And should we therefore be looking ahead to the most prudent reforms possible in light of our apparent administrative fate?

Marini claims that the growth of the administrative state is the result of a political decision, or more precisely, a series of political decisions, freely made and therefore in principle reversible (22–23) by another series of political decisions designed in their turn to restore the ruling constitutionalism of the Founding (updated, to be sure). But thinkers as diverse as Weber, Dewey, Junger, Heidegger, Burnham, and Kojève would disagree with him. For Heidegger, the driving force behind all cultural and political change in the modern age is the unfolding of technology, where “technology” is understood as the latest dispensation of Being, which, like every other dispensation of Being, lies beyond the control of calculative thinking and willing. The technocratic or administrative state in its various forms (e.g., Western-Progressive,

Chinese-Confucian-Communist, Stalinist-Soviet, Kojèvean-European) would then be the political face of this dispensation's latest phase, and as such would be an aspect of the "destiny" of the modern world. Simply put, the rise of the administrative state is a political imperative of the latest stage in the inexorable scientific-technological conquest of nature and therefore cannot be reversed or evaded. Who is right, Marini or Heidegger?

Perhaps most important of all is the complex question whether Marini's understanding of the Constitution as grounded in the philosophy of natural right is accurate, and if so, whether the Constitution's grounding in natural right is a foundation based on the permanent truth about the nature of human beings. And how well does his account stand up to criticism by radical historicists such as Nietzsche and Heidegger, but also by more moderate historicists such as T. H. Green and A. N. Whitehead, both of whom were directly or indirectly influenced by Hegel and would defend the administrative state in one form or another? (*The Dialogues of Alfred North Whitehead*, for instance, makes plain the great philosopher's favorable opinion of FDR's domestic policies.)

It is with the last question that we begin to see why various conservatives, Straussians among them, are so divided over the issue of supporting President Trump. A more thorough investigation of this question leads one to consider the nature of the Lockean foundation of the American regime and whether this foundation is based solely on modern natural right or has some basis in ancient natural right. (The arguments in this debate at its profoundest level can be found in the works of Harry Jaffa, Edward Erler, John Marini, and Thomas West, on one hand, and Harvey Mansfield, James Ceaser, Thomas Pangle, and John Rohr, on the other.) One key question might be put this way: Does Tocqueville's political science provide us with the best way forward to understanding the administrative state, or is his political science itself rooted in a historicist political philosophy that is at the heart of the problem?

Marini's thought-provoking book takes us from the everyday world of politics, as understood by American citizens, to the world of political philosophy. The book begins and ends with discussions of President Trump and the simple political question: Should the citizens support him or oppose him? Marini's work demonstrates how the everyday, commonsense questions of politics, when thought through more deeply and reflectively, lead us to the permanent questions of political philosophy. Whether one agrees or disagrees with his account, this is traditional political science accomplished in the manner of Aristotle and Tocqueville, in a fine contemporary expression.