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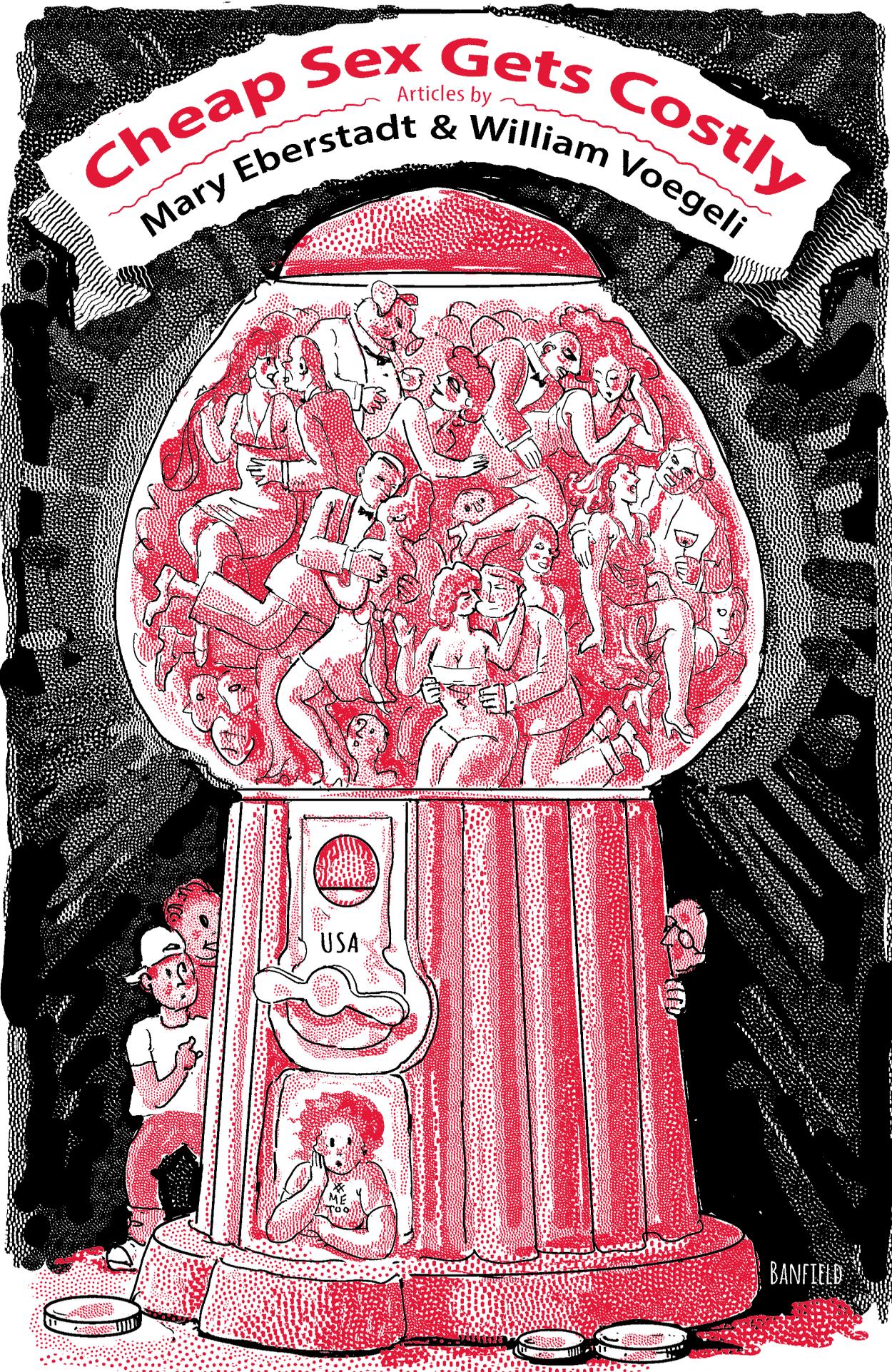
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Bradley C.S.
Watson:
*Bureaucracy
in America*

Brian Allen:
*The New
African American
Museum*

Allen C.
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*The
Gilded Age*

Karl Rove:
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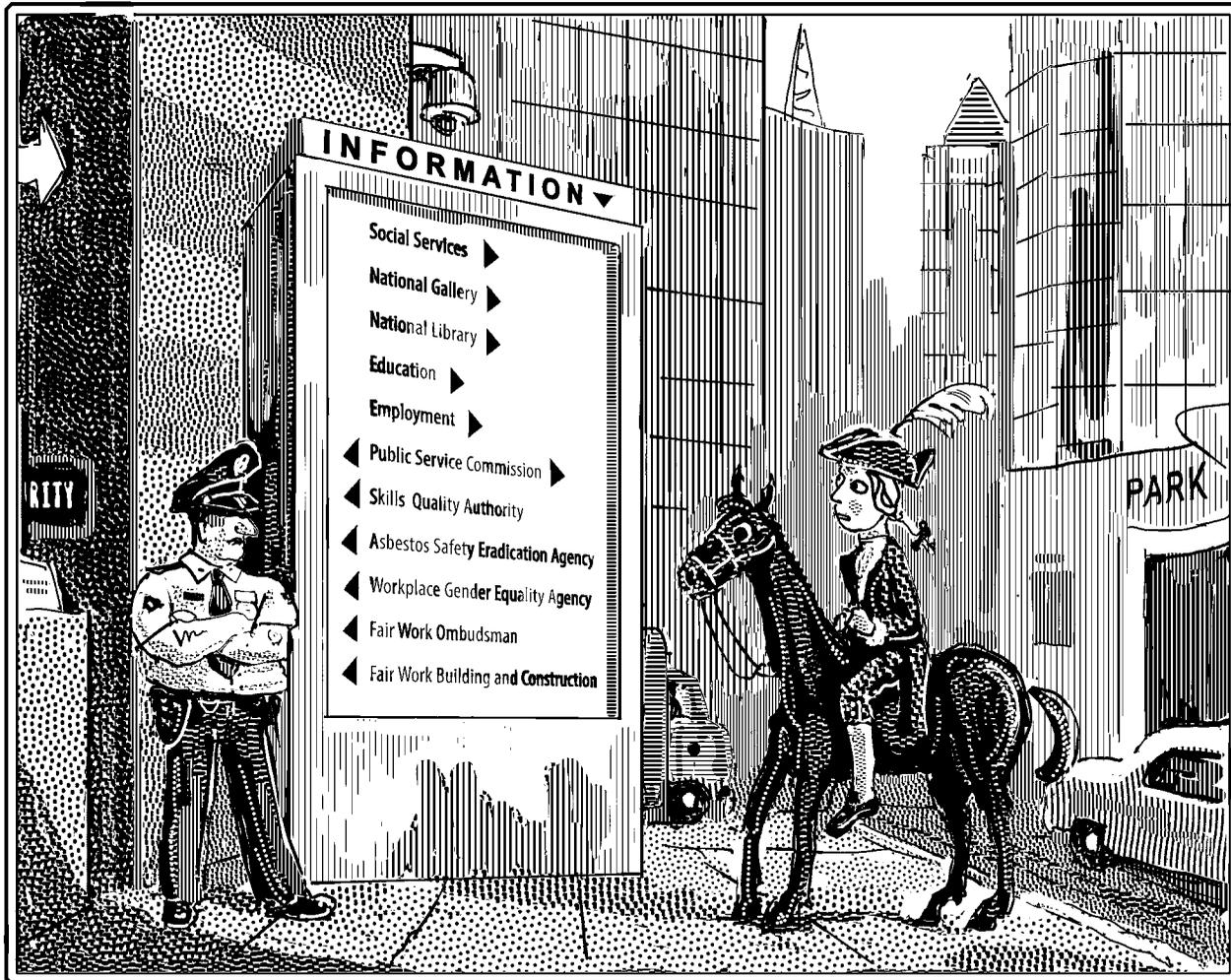
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Book Review by John Marini

HOW THE RULING CLASS RULES

The Bureaucrat Kings: The Origins and Underpinnings of America's Bureaucratic State,
by Paul D. Moreno. Praeger, 204 pages, \$46



Yankee Doodle Came to Town...

IN *THE BUREAUCRAT KINGS: THE ORIGINS and Underpinnings of America's Bureaucratic State*, Paul Moreno indicts the American administrative state and our new ruling class, its chief beneficiary. A professor of history at Hillsdale College, he writes as a historian but also a citizen in rejecting the inherent beneficence or historical inevitability of social "reform" and "progress." Alert to the profound effect the idea of progress has had on popular government, he nonetheless judges historical and political changes in light of an unchanging standard of the public good, or justice, an idea inherent in the founding documents, the Declaration of Independence and the Constitution.

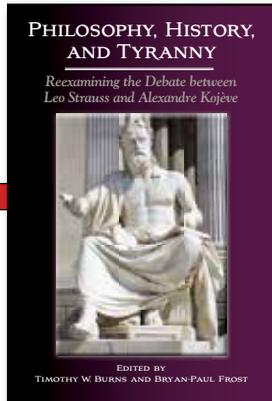
"The United States is ruled by an establishment nowhere mentioned in the U.S. Constitution," Moreno laments. "Once a federal re-

public, we have become a centralized bureaucracy run by an unelected administrative class," one that "combines the legislative, executive, and judicial functions that the Constitution separated." Congress is particularly guilty, he argues, for "delegat[ing] its lawmaking power to this bureaucracy" in ways that make "Congress more powerful and less accountable." Because these actions have undermined federalism and the separation of powers, the conditions that sustain popular rule, Moreno does not spare the executive and judicial branches or the states for helping transform a constitutional regime into a bureaucratic state.

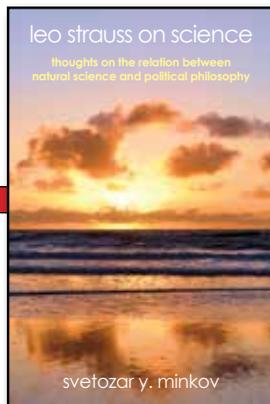
THE *BUREAUCRAT KINGS* REJECTS THOSE administrative law professors who purport to have discovered "a hidden

or forgotten" administrative constitution extending throughout American history." No one would deny the importance of administration as a practical necessity for all governments, but centralized administration, or bureaucracy, is a new form of rule that establishes "organized intelligence" as the heart and mind of the "rational state" imagined by G.W.F. Hegel. In Max Weber's view, it was understood to be the final form of rule, an expression of the last Western value, "rationality." Moreno, by revealing the theoretical and political roots of the founders' Constitution, shows them to be wholly incompatible with what has come to be understood as bureaucratic, or rational, rule. His judgment concerning the absence of bureaucratic rule throughout much of America's past com-

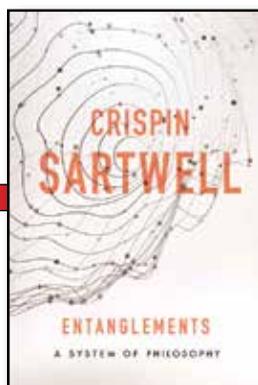
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ports with two of the most discerning students of modern democracy and bureaucracy.

In the 19th century Alexis de Tocqueville described the phenomenon of bureaucracy almost before it had revealed itself. He called it centralized administration, which he considered the new form of despotism that democracies must fear if they are to remain free. This democratic disease had not yet infected the Jacksonian America he examined; in fact, he praised America for its burgeoning civil and political associations, and for the absence of centralized administrative rule. The Constitution and a federal system had allowed for a decentralized *political* and *administrative* system of government, which inhibited the rise of the administrative state. Nonetheless, Tocqueville in *Democracy in America* warned against abandoning those traditional political and social institutions that had prevented its growth.

Ludwig von Mises confirmed Tocqueville's judgment regarding America. In *Bureaucracy* (1944), von Mises wrote, "Although the evolution of bureaucratism has been very rapid in these last years, America is still, compared with the rest of the world, only superficially afflicted. It shows only a few of the characteristic features of bureaucratic management." Unlike Great Britain and continental Europe, Von Mises insisted, "America alone is still free to choose. And the decision of the American people will determine the outcome for the whole of mankind."

Von Mises believed that America was still governed by officials whose power was limited by a written Constitution's authority, as opposed to being ruled by those whose authority rested on expert knowledge. "If the citizens are under the intellectual hegemony of bureaucratic professionals," he contended, "society breaks up in two castes: the ruling professionals, the Brahmins, and the gullible citizenry. Then despotism emerges, whatever the wording of constitutions and laws may be." Like Tocqueville, he considered bureaucratic rule a form of democratic despotism, and believed that America still had a choice.

MORENO SHOWS THAT, FOR MORE than a century after America's founding period, administration was limited by constitutionalism, and decentralized by federalism. Popular government required that the rule of law be established by the people's representatives and legitimized by consent of the governed. Although he does not deny the reality of "social and economic change," he implies that political choice depends more heavily on political ideas or theory. Relying on Abraham Lincoln as a guide

to applying timeless principles to changing circumstances, Moreno notes that "socioeconomic reality changed between the American Revolution and the Civil War, but Lincoln and the Republicans persuaded the American people to *return* to the principles of the Founding" (emphasis in the original).

By the end of the 19th century, however, the influence of German philosophy and political science had made any such return almost unthinkable. The idea took hold that it was impossible to reject change once History with a capital H, understood in terms of rational necessity, had nodded its approval. Then, rational choice dictated adapting or accommodating the new—and ruled out any return to the former principles as by definition irrational and reactionary.

It was, Moreno suggests, "the late-19th-century progressives [who] chose not to return to our founding principles, but to adopt modern, continental European theories of government." The progressive philosophy of history would establish the theoretical and practical ground of the administrative state. By the end of the 20th century, as American government increasingly accommodated itself to the requirements of administrative rule, the bureaucracy supplanted the political branches as the arbiter of policymaking.

MORENO GIVES A BRIEF BUT MASTERLY account of the "four waves of the administrative state" over the past century. The first (1900–1930), on behalf of an expansive national public sector, was spearheaded by activist presidential leadership within both parties. In the second (1930–1945), the New Deal established "the state as an entitlement-provider rather than a rights-protector." The third wave (1945–1975), the "Great Society and the New Social Regulation" led "by a resurgent judiciary," centralized administrative power on behalf of civil rights and the national regulation of social and economic problems. Finally, the fourth wave (1975–2010) revealed that the constitutional branches and political parties were unable to limit administrative rule. Although the separation of powers was "designed to prevent the rise of a centralized bureaucratic state," he recognizes that "[o]nce that state was established...the same structure made it difficult to undo."

The almost unbroken ascendancy of the administrative state in the last half of the 20th century undermined the political dynamic that made the separation of powers work. The political branches could no longer understand the common good from the perspective of constitutionally established insti-



tutions. Instead, the legislative and executive branches both understood *their* powers and prerogatives from the perspective of the administrative state. In such circumstances, it became almost impossible to make “ambition counteract ambition.” The legislature no longer defended its constitutional power or acted as a body whose collective purpose was defined and expressed by lawmaking. It became mainly a collection of individual offices that mirrored the executive branch, comprising members who were co-administrators instead of lawmakers.

Nor could the president re-establish political rule from the executive branch. Indeed, Moreno denies that the Nixon and Reagan presidencies did, or could do, much to challenge administrative rule. In fact, Moreno contends that Ronald Reagan strengthened rather than reduced the power of the administrative state by doing “more to make presidential control of the bureaucracy a reality than did all of his predecessors.” Despite the intentions of individual presidents, for and against administrative rule, presidential control of the bureaucracy alone could not re-establish the political conditions of constitutional rule. Rather, it had become clear by the end of the century that administration had become the heart of modern government, almost impervious to political control.

OF COURSE, EVERY ACTIVITY OF GOVERNMENT requires execution and agents with the discretion needed to discharge their duties. The necessity of competent administration was well known to the American Founders. Its problematic character, in terms of constitutional government, derives from the fact that, as Alexander Hamilton observed in *The Federalist*, “the administration of government, in its largest sense, comprehends all the operations of the body politic, whether legislative, executive, or judiciary.” The Constitution’s political success depended on separating those governmental powers to prevent unified and despotic rule, establishing instead a limited government compatible with political consent and popular rule.

Consequently, the Constitution grants administration no independent or autonomous authority. The political branches participate in establishing the ground of administrative authority, and controlling its effects as well. Only within the modern concept of the “rational State” does administration acquire a new kind of technical and rational authority, derived from scientific or universal knowledge, which both establishes its autonomy and assures its status.

The idea of a rational State, operating with autonomous and politically neutral administration, was a product of the 19th-century historicism that inspired the agenda for Progressivism and 20th-century liberalism. The bureaucratic state’s growth parallels the rise of the new social sciences and the positivist understanding of law. The authority that legitimized the modern administrative state is the technical, rational knowledge derived from the new social sciences’ methods. In John Dewey’s view, the “social intelligence” produced in the modern research university would establish the means to administer progress within the Hegelian “rational state.” Accordingly, the new disciplines of political science, economics, sociology, history, and law viewed America’s past and future through the lens of Progressive theory. All attempted to understand political, economic, and social reality as revealed and made intelligible by the empirical, or scientific method. Since Auguste Comte, the social sciences were intended to be the applied science of the rational state.

The abandonment of natural rights made bureaucratic rule possible and perhaps inevitable.

THE THEORETICAL DEFENSE OF BUREAUCRATIZATION rests on the premise that change, or progress, is not merely good but historically inevitable. This championing of the new was a revolution in politics and political thought. If Hannah Arendt is to be believed, the figure behind that theoretical view was also the father of the modern state (*lo stato*) and revolution, or re-founding, itself. There “exists in our political history one type of event for which the notion of founding is decisive, and there is in our history of thought one political thinker in whose work the concept of foundation is central, if not paramount,” she notes in her essay “What Is Authority?”. “The events are the revolutions of the modern age, and the thinker is Machiavelli, who stood at the threshold of this age and, though he never used the word, was the first to conceive of a revolution.”

The revolution Machiavelli initiated was not merely political and social. By establishing novelty—openness to change—as an essential feature of the modern mind, it un-

dermined nearly all tradition. Is “this piece of Machiavelli’s mind beginning to feel familiar to our modern eye and ear?” Harvey Mansfield asked in the *Wall Street Journal* in December, in a piece marking the 500th anniversary of *The Prince*. “Here, in the constant need for novelty and acquisition—our freedom in combat with our necessity—we have the germ of our modern politics, our business, our intellectuals, our arts, our morals.” Why have those revolutions, so receptive to innovation, been so often transformed into the rigid conformity and uniformity of bureaucratic rule? Nearly every modern regime has been established on a revolutionary foundation. Are they all Machiavellian, destined to follow the historical pattern established at the beginning of modernity? If it has become impossible to preserve tradition of any kind, “rational” rule is modern man’s fate.

It is hard to imagine a writer more contemptuous of bureaucracy than Franz Kafka, who once wrote that “every revolution evaporates and leaves behind only the slime of a new bureaucracy.” In his view, bureaucracy would seem to be the unnatural outgrowth of revolutionary fervor bred of utopian expectations. His hatred of bureaucracy informed his understanding of all politics and civil society as well. If Kafka and Max Weber are right, all revolutionary politics must end in bureaucracy. In their view, it would appear that bureaucracy is the inevitable but also the inhuman result of revolutionary modernity.

WEBER, PERHAPS THE GREATEST SOCIAL SCIENTIST of the 20th century as well as the most profound student of modern bureaucracy, argued that “the fate of our times is characterized by rationalization and intellectualization and, above all, the ‘disenchantment of the world.’” In his view, the shift from traditional authority to legal-rational authority would lead to a “polar night of icy darkness” culminating in an “iron cage” of rational control. In Weber’s view, modern bureaucracy is the final form of the metamorphosis of reason, and its last and only value. “Joined to the dead machine, [bureaucratic organization] is at work to erect the shell of that future bondage to which one day men will perhaps be forced to submit in impotence...if a purely, technically good, that is, rational bureaucratic administration and maintenance is the last and only value which is to decide on the manner in which their affairs are directed.” In his despair he wondered: “what have we to set against this machinery, in order to preserve a remnant of humanity from this parceling-out of the soul, from this exclusive rule of bureaucratic life ideals?”



It is not surprising that bureaucracy, unlike science, technology, or medicine, is the only kind of rational progress or change that is unwelcomed by liberals and conservatives, progressives and reactionaries. Even Karl Marx disputed Hegel's contention that universal knowledge establishes the status and authority of a civil service class, whose expertise would free it of any social or economic ties. As Marx noted in his *Critique of Hegel's Philosophy of Right*, "The state formalism, which the bureaucracy is, is the state as formalism, and Hegel has described it precisely as such a formalism. Because this state formalism constitutes itself as a real power and becomes itself its own material content, it is evident that the bureaucracy is a tissue of practical illusion, or the illusion of the state." Marx calls the bureaucracy "a circle from which one cannot escape." In its "hierarchy of knowledge," the "top entrusts the understanding of detail to the lower levels, whilst the lower levels credit the top with understanding of the general, and so all are mutually deceived." For Marx, organized knowledge would not and could not bring about revolutionary change. Only a revolutionary class—the proletariat—would deliver us. But even they turned out to need minding by a vanguard class of intellectuals.

WERE KAFKA AND WEBER RIGHT IN their assumption that all modern revolutions are destined to disintegrate into a historically inevitable bureaucratic slime? In analyzing modern revolutions since Machiavelli, Arendt noted, "The fact that not only the various revolutions of the twentieth century but all revolutions since the French have gone wrong, ending in either restoration or tyranny, seems to indicate that even these last means of salvation provided by tradition have become inadequate." None of those revolutions could reconcile the notion of *founding* with the defense of any kind of tradition. All

were destined to consume themselves in the process of founding. Nonetheless, Arendt exempted one modern revolution from her verdict. She insisted that of all revolutionary attempts, "*only one, the American Revolution, has been successful*" (emphasis added).

Although America established itself on a revolutionary foundation, it did not, like France, attempt a new order that obliterated its moral, religious, and intellectual legacy. Indeed, in the eyes of the American Founders, the revolution and its *re-constitution* were meant to defend the highest intellectual, political, and religious traditions, those derived from philosophy, literature, science, and theology. Under America's regime of civil and religious liberty, defense of those traditions would become a defense of the founding and those eternal principles upon which it had established itself: the trans-historical ideas derived from reason, nature, and revelation. The founders sought to protect the theoretical ground of both philosophy and religion, and thereby defend the way of life derived from each.

In the aftermath of the American Revolution, the theoretical defense of rational limits imposed by nature or nature's God, as a condition of human happiness, was to become almost indistinguishable from a defense of the founding and the founders themselves. The abandonment of the founders' theoretical perspective of justice, or natural right, and rejection of its embodiment in the political science of the Constitution, made bureaucratic rule possible and, perhaps, inevitable. But the long-term political success of administrative rule would require delegitimizing the founding's principles in order to establish the legitimacy of the administrative, *née* rational, state. That has yet to occur.

NONETHELESS, AS PAUL MORENO HAS shown, the politics of progressivism has succeeded in empowering a new

class, the bureaucrat kings, drawn from both the public and private sector, whose interest requires the perpetuation of an administrative state directed from the center. Consequently, the defense of justice, of a common good understood in terms of the principles that established constitutional government, still demands the defense of political rule as opposed to rational rule. As von Mises has noted,

democracy means self-determination. How can people determine their own affairs if they are too indifferent to gain through their own thinking an independent judgment on fundamental political and economic problems? Democracy is not a good that people can enjoy without trouble. It is, on the contrary, a treasure that must be daily defended by strenuous effort.

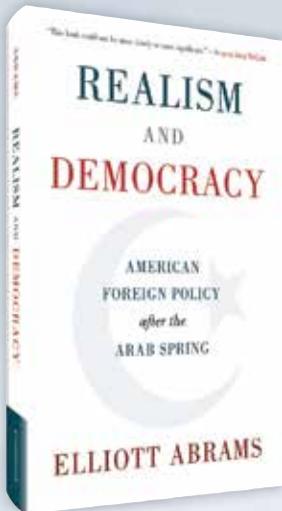
Both Tocqueville and von Mises had described an America still animated by constitutionalism and attachment to civil and religious liberty. By failing to comprehend its animating principles, or by denying the justice of its own past, is it destined to succumb to the fate described by Kafka and Weber? The verdict on America is not yet in, but as long as democracy includes the capacity to choose new leaders *and* transform political institutions, the rule by bureaucrat kings, however well organized and intended, remains precarious. If, on the other hand, the path of least resistance is to enjoy the benefits of rational rule rather than reestablish political rule, then only "the pitiless crowbar of events," in Aleksandr Solzhenitsyn's words, can reawaken the desire for freedom and self-government.

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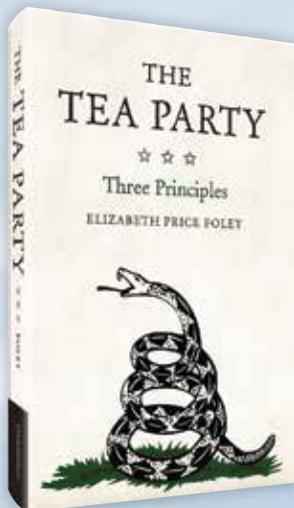


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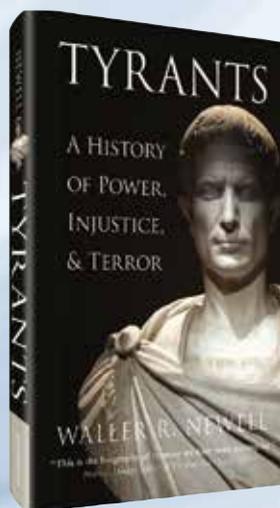
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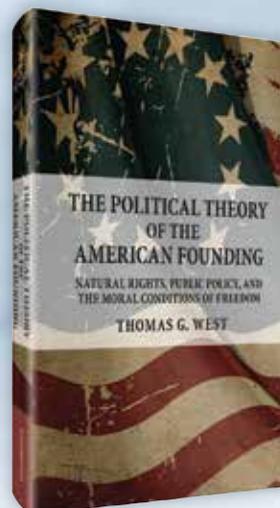
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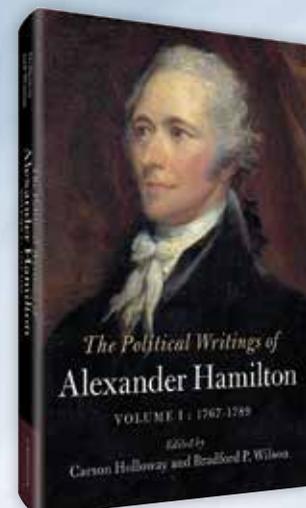
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