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Tocqueville's Nightmare: The Administrative State Emerges in America, 1900–1940. By Daniel

R. Ernst. New York: Oxford University Press, 2014. 240p. \$39.95. - Volume 13 Issue 1 - Daniel

Carpenter

Tocqueville's Nightmare: The Administrative State Emerges ...

Tocqueville's Nightmare, shows, to the contrary, that the nation's best corporate lawyers were among the creators of 'commission government,' that supporters were more interested in purging government of corruption than creating a socialist utopia, and that the principles of individual rights, limited government, and due process were designed into the administrative state.

Tocqueville's Nightmare: The Administrative State Emerges ...

In Tocqueville's Nightmare, Daniel R. Ernst destroys this ahistorical and simplistic narrative. He

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shows that, in fact, the nation's best corporate lawyers were among the creators of "commission government" that supporters were more interested in purging government of corruption than creating a socialist utopia, and that the principles of individual rights, limited government, and due process were built into the administrative state.

Tocqueville's Nightmare: The Administrative State Emerges ...

Tocqueville's Nightmare is a wonderful blend of intellectual, legal, and administrative history that provides a telling and very complicated story about the roots of the American administrative state. The American state is an exceptional one: out of Americans' fear of the arbitrary and unchecked despotism of bureaucrats as well as the vicissitudes of democracy, they have created an ...

Tocqueville's Nightmare: The Administrative State Emerges ...

Abstract. The French aristocrat Alexis de Tocqueville once wrote that "insufferable despotism" would prevail if America ever acquired a national administrative state. Today's Tea Partiers evidently believe that Tocqueville's nightmare has come true. Between 1900 and 1940, it seems, radicals, seduced by alien ideologies, created vast bureaucracies that continue to trample on individual freedom.

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Tocqueville's Nightmare. The Administrative State Emerges in America, 1900-1940. Daniel R. Ernst. Description. In the 1830s, the French aristocrat Alexis de Tocqueville warned that "insufferable despotism" would prevail if America ever acquired a national administrative state.

Tocqueville's Nightmare - Daniel R. Ernst - Oxford ...

In the 1830s, the French aristocrat Alexis de Tocqueville warned that "insufferable despotism" would prevail if America ever acquired a national administrative state. Today's Tea Partiers evidently believe that, after a great wrong turn in the early twentieth century, Tocqueville's nightmare has come true.

Tocqueville's Nightmare: The Administrative State Emerges ...

Professor Jeremy Kessler's insightful review of Professor Daniel Ernst's wonderful book on administrative law through the 1940s, Tocqueville's Nightmare, raises several important questions about the topic and about how we are to understand it through a historian's eyes. 1 x 1.

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Alexis de Tocqueville once warned that insufferable despotism would prevail if America ever acquired a national administrative state. Today's Tea Partiers evidently believe that Tocqueville's nightmare came true during the New Deal when radicals created vast bureaucracies that continue to trample on individual freedom. In Tocqueville's Nightmare, Daniel R. Ernst destroys this ahistorical and ...

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Tocqueville's Nightmare: The Administrative State Emerges ...

Daniel Ernst, Tocqueville's Nightmare: The Administrative State Emerges in America, 1900-1940 (New York: Oxford University Press, 2014) In 1888, in his inaugural lecture as Downing Professor, the eminent English jurist F.W. Maitland lamented the paradox of legal history.

Administration and Legal Orthodoxy: A Review of ...

tocquevilles nightmare the administrative state emerges in america 1900 1940 Sep 06, 2020
Posted By Robert Ludlum Public Library TEXT ID f7600f4e Online PDF Ebook Epub Library
confronted then transformed and finally secured the legitimacy of the administrative state the
book is a canonical contribution to the scholarly effort to normalize american

De Tocqueville once wrote that 'insufferable despotism' would prevail if America ever acquired a national administrative state. Between 1900 and 1940, radicals created vast bureaucracies that continue to trample on individual freedom. Ernst shows, to the contrary, that the nation's best corporate lawyers were among the creators of 'commission government'; that supporters were more interested in purging government of corruption than creating a socialist utopia; and that the principles of individual rights, limited government, and due process were designed into the administrative state.

A basic feature of the modern US administrative state taken for granted by legal scholars but neglected by political scientists and historians is its strong judiciality. Formal, or court-like, adjudication was the primary method of first-order agency policy making during the first half of

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the twentieth century. Even today, most US administrative agencies hire administrative law judges and other adjudicators conducting hearings using formal procedures autonomously from the agency head. No other industrialized democracy has even come close to experiencing the systematic state judicialization that took place in the United States. Why did the American administrative state become highly judicialized, rather than developing a more efficiency-oriented Weberian bureaucracy? Legal scholars argue that lawyers as a profession imposed the judicial procedures they were the most familiar with on agencies. But this explanation fails to show why the judicialization took place only in the United States at the time it did. Okayama demonstrates that the American institutional combination of common law and the presidential system favored policy implementation through formal procedures by autonomous agencies and that it induced the creation and development of independent regulatory commissions explicitly modeled after courts from the late nineteenth century. These commissions judicialized the state not only through their proliferation but also through the diffusion of their formal procedures to executive agencies over the next half century, which led to a highly fairness-oriented administrative state.

This groundbreaking book is the first to look at administration and administrative law in the earliest days of the American republic. Contrary to conventional understandings, Mashaw demonstrates that from the very beginning Congress delegated vast discretion to administrative officials and armed them with extrajudicial adjudicatory, rulemaking, and enforcement authority. The legislative and administrative practices of the U.S. Constitution's first century created an administrative constitution hardly hinted at in its formal text. Beyond describing a history that has previously gone largely unexamined, this book, in the author's words, will "demonstrate that there has been no precipitous fall from a historical position of separation-of-powers grace to a position of compromise; there is not a new administrative constitution whose legitimacy should be understood as not only contestable but deeply problematic."

A major revision of the history of labor law in the United States in the early twentieth century, "Lawyers against Labor" goes beyond legal issues to consider cultural, political, and industrial history as well. In the first full treatment of the turn-of-the-century American Anti-Boycott Association (AABA), Daniel Ernst ably leads the reader through a compelling story of business and politics. The AABA was an organization of small- to medium-sized employers whose staff litigated and lobbied against organized labor. Ernst captures in depth the characters involved, bringing them to life with a writer's eye and a touch of wit. As he examines the AABA at work to combat trade unions through the courts, he introduces its most notable leaders, Daniel Davenport and Walter Gordon Merritt - who personified the opposing points of view - and shows how pluralism had won itself a place in the legal, academic, political, corporate, and even trade-union worlds long before the New Deal.

The Unwieldy American State offers a political and legal history of the administrative state from the 1940s through the early 1960s. After Progressive Era reforms and New Deal policies shifted a substantial amount of power to administrators, the federal government's new size and shape made one question that much more important: how should agencies and commissions exercise their enormous authority? In examining procedural reforms of the administrative process in light of postwar political developments, Grisinger shows how administrative law was shaped outside the courts. Using the language of administrative law, parties debated substantive questions about administrative discretion, effective governance and national policy, and designed reforms accordingly. In doing so, they legitimated the administrative process as a valid form of government.

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The election of Donald J. Trump to the presidency shocked the political establishment, triggering a wave of hysteria among the bicoastal elite that may never subside. The biggest shockwaves of all, however, were felt not in the progressive parishes of Manhattan or San Francisco, but in the halls of the political elite's cherished and oft-overlooked center of power—Washington, DC's sprawling "administrative state"—for President Trump represented an existential threat to its denizens, who came to be known as "swamp creatures." How did it come to pass that the "draining of the swamp" would become a core aim of the Trump administration, impacting everything from judicial appointments to the federal budget and regulatory policy? Marini's unmasking of the administrative state goes beyond bureaucracy or legalism to its core in an intellectual elite whose consensus transcends whatever disagreements flare up. The universities, the media, and think-tanks that denounce Trump are its heart. The answer to this question and many more lies in the underappreciated but revolutionary scholarship of Professor John Marini, collected in his new book, *Unmasking the Administrative State*, which tells the critical missed story of the last century of political history: The ascendance of the theory behind and resultant growth of an administrative state that has supplanted limited constitutional government with the tyranny of unbounded anticonstitutional bureaucracy. Marini illustrates the existential threat of the administrative state to our republic, exposes the regressive philosophy from which it springs, and argues for the reassertion of the founding principles to restore self-government. The Trump administration may be the best chance to apply the lessons of Marini's life's work and seize this remarkable opportunity to restore power to its rightful owners: the American people.

Based on newly discovered letters and memos, this riveting scholarly history of the conservative justice who became a free-speech advocate and established the modern understanding of the First Amendment reconstructs his journey from free-speech skeptic to First Amendment hero. (This book was previously featured in Forecast.)

A hilarious, entertaining, and illuminating compendium of the most bizarre ways you might become a federal criminal in America—from mailing a mongoose to selling Swiss cheese without enough holes—written and illustrated by the creator of the wildly popular @CrimeADay Twitter account. Have you ever clogged a toilet in a national forest? That could get you six months in federal prison. Written a letter to a pirate? You might be looking at three years in the slammer. Leaving the country with too many nickels, drinking a beer on a bicycle in a national park, or importing a pregnant polar bear are all very real crimes, and this riotously funny, ridiculously entertaining, and fully illustrated book shows how just about anyone can become—or may already be—a federal criminal. Whether you're a criminal defense lawyer or just a self-taught expert in outrageous offenses, *How to Become a Federal Criminal* is your wonderfully weird window into a criminally overlooked sector of American government.

During the Progressive Era (1880-1920), leading thinkers and politicians transformed American politics. Historians and political scientists have given a great deal of attention to the progressives who effected this transformation. Yet relatively little is known about the conservatives who opposed these progressive innovations, despite the fact that they played a major role in the debates and outcomes of this period of American history. These early conservatives represent a now-forgotten source of inspiration for modern American conservatism. This volume gives these constitutional conservatives their first full explanation and demonstrates their ongoing relevance to contemporary American conservatism.

What is the criminal law for? One influential answer is that the criminal law vindicates pre-

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political rights and condemns wrongdoing. On this account, the criminal law has an intrinsic subject matter-certain types of moral wrongdoing-and it provides a distinctive response to that wrongdoing, namely condemnatory punishment. In *Criminal Law in the Age of the Administrative State*, Vincent Chiao offers an alternative, public law account. What the criminal law is for, Chiao suggests, is sustaining social cooperation with public institutions. Consequently, we only have reason to support the use of the criminal law insofar as its use is consistent with our reasons for valuing the social order established by those institutions. By starting with the political morality of public institutions rather than the interpersonal morality of private relationships, this account shows how the criminal law is continuous with the modern administrative and welfare state, and why it is answerable to the same political virtues. Chiao sketches a democratic egalitarian account of those virtues, one that is loosely consequentialist, egalitarian but not equalizing, and centered on a form of freedom-effective access to central capabilities-as its currency of evaluation. From this point of view, the role of the criminal law is to help public institutions create a society in which each person can lead a life as a peer among peers. Chiao shows how a democratic egalitarian approach to criminal justice provides a fresh perspective on a range of contemporary problems, from mass incarceration to overcriminalization, due process and the collateral consequences of a criminal conviction.

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