

Introduction

INTRODUCTION: TRUTHS TO METHODS

In his 1947 essay “The Present Prospects of American Painting and Sculpture,” the New York art critic Clement Greenberg pronounced Jackson Pollock “the most powerful painter in contemporary America.”¹ Around the time this essay appeared, thanks in prominent part to Greenberg’s own efforts, Pollock’s canvases had begun to attract considerable attention. The German-American photographer Hans Namuth’s iconic 1950 photograph cycles and short films of Pollock dripping paint onto canvases stretched on the ground would only add to the artist’s fame.

Pollock’s paintings represented no object. What they (and Namuth’s photograph cycles and short films) instead foregrounded in their riot of paint and texture and motion were the processes, methods, and techniques of painting. The “emphatic surfaces” of Pollock’s canvases, as Greenberg called them, pointed to “laying on paint directly from the tube.”² What did this mean? To be sure, many answers are available. During the middle decades of the twentieth century, however, one in particular was very familiar. Greenberg’s own celebrated 1939 *Partisan Review* essay, “Avant-Garde and Kitsch,” had made the point as follows:

¹ Clement Greenberg, “The Present Prospects of American Painting and Sculpture,” *Horizon*, October 1947, reprinted in Clement Greenberg, *The Collected Essays and Criticism* (4 vols.) (John O’Brian ed.) (Chicago and London: University of Chicago Press, 1986), II, *Arrogant Purpose, 1945–1949*, p. 166.

² Greenberg, “The Present Prospects of American Painting and Sculpture,” p. 166.

A society, as it becomes less and less able, in the course of its development, to justify the inevitability of its particular forms, breaks up the accepted notions upon which artists and writers must depend in large part for communication with their audiences. It becomes difficult to assume anything. All the verities involved by religion, authority, tradition, style, are thrown into question . . .

In such a situation, Greenberg continued, the poet or artist or writer “turn[ed] his attention away from subject matter of common experience” and “in upon the medium of his own craft.”³ In other words, the erosion of “verities” resulted in a turn to processes, methods, and techniques, ways of getting at truths, rather than truths themselves. Pollock’s canvases exemplified such a turn.

One of the many noteworthy facts about mid-century abstract expressionism, and about Pollock’s art in particular, is that it was actively deployed by the US government as Cold War propaganda. A great deal has been written about how the US Department of State, the Central Intelligence Agency, and the Museum of Modern Art (MoMA) in New York used American abstract expressionist paintings in exhibitions in the United States, Europe, and Latin America.⁴ What was at stake in these exhibitions was precisely the contrast between the “freedom” of modern American art and the “oppression” of its heavy-handed, officially sanctioned, excessively referential, social realist Soviet counterpart. On October 19, 1954, in a prerecorded speech delivered on the occasion of the twenty-fifth anniversary of MoMA’s founding, none other than President Dwight Eisenhower made the point as follows:

For our Republic to stay free, those among us with the rare gift of artistry must be able freely to use their talent. . . . [H]ow different it is in tyranny. When artists are made the slaves and tools of the state; when artists become the chief propagandists of a cause, progress is arrested and creation and genius are destroyed.⁵

What does it say about mid-century American “freedom” that the art chosen to represent it officially – Pollock’s paintings, among others – eschewed a representation of truth in favor of a representation of its own processes, methods, and techniques? The mid-century American claim to represent freedom was ultimately a claim about the country’s

³ Clement Greenberg, “Avant-Garde and Kitsch,” *Partisan Review* (1939), reprinted in *Critical Essays* (Boston: Beacon Press, 1961), pp. 3–4, 6.

⁴ See, e.g., Eva Cockcroft, “Abstract Expressionism, Weapon of the Cold War,” *Artforum* Vol. 12, No. 10 (June 1974): 39–41.

⁵ www.moma.org/momaorg/shared/pdfs/docs/press_archives/1874/releases/MOMA_1954_0095_89.pdf?2010, p. 12. I am grateful to Diego Rosette for locating this source.

legal, political, and economic orderings. In what sense could those orderings be said to be emblemized by the work of an artist like Jackson Pollock? Did mid-twentieth-century American legal, political, and economic thinkers – rather in the manner of Pollock – themselves turn away from truths, foundations, and ends toward processes, methods, and techniques?

Briefly (with qualifications), yes. This book is an exploration of how, between approximately 1870 and 1970, crucially important segments of American law, political science, and economics underwent a massive turning *away* from given truths, ends, foundations, rationalities, logics, moralities, essences, and teleologies *toward* ways, means, methods, techniques, procedures, and processes. I employ the umbrella phrase “the turn to process” to describe this broad shift. I draw attention to the very different contexts in which American legal, political, and economic thinkers forged distinct turns to process; trace the twisting careers of these turns to process; and show how they intersected with one another. In doing all of the above, I make visible a mammoth development in twentieth-century American intellectual life as well as offer a meditation on the relationship between method and history.⁶

MODERNISM: SITUATING THE TURN TO PROCESS IN AMERICAN LAW, POLITICAL SCIENCE, AND ECONOMICS

As my opening references to the paintings of Jackson Pollock and the art criticism of Clement Greenberg suggest, the turn to process between 1870 and 1970 was by no means confined to American legal, political, and economic thinkers. Rather, it was part of a sweeping transformation in Euro-American intellectual life that is often subsumed under the rubric of “modernism.”

⁶ My decision to group different concepts – ways, means, methods, techniques, procedures, and processes – under a single rubric (“the turn to process”) is self-conscious and deliberate. *First*, I am interested in highlighting what is *common* to ways, means, methods, techniques, procedures, and processes, namely, their tool-like quality, their orientation toward getting at ends rather than toward describing existing truths. To focus on the differences among ways, means, methods, procedures, and processes, while an entirely worthwhile enterprise in itself, would make this a different book. *Second*, as will become clear, my nonrigorous blurring of distinctions among ways, means, methods, techniques, procedures, and processes reflects how the thinkers I study themselves employed these terms.

Modernism is admittedly a vast subject. Its instantiations are discernible in diverse areas of scientific, intellectual, and artistic endeavor – from architecture to anthropology, literature to logic, music to mathematics, poetry to physics – and vary widely depending on thinker, discipline, institutional setting, national tradition, place, and time. I have chosen in this book to focus on modernist developments in American law, political science, and economics between 1870 and 1970 because of the undeniable importance of these disciplines in the self-understanding of any polity, because of their evident interrelatedness, and because of their extended histories, which permit me to trace developments over a long span of time. For reasons of space, I have chosen not to include other disciplines. However, one might easily focus on a different set of disciplines – for example, psychology, literary criticism, or theology – and write a different account. The account of the turn to process given here does not in any way preclude others.⁷

In situating the turn to process in American legal, political, and economic thought within the broader context of modernism, it is important to develop more fully the intimate connection between two crucial features of the modernist dispensation (both appearing in microcosm in my preceding discussion of Clement Greenberg's art criticism).

First, in the last quarter of the nineteenth century, at a time of social, political, and economic transformation, the Darwinian revolution, and rapid scientific and technological development, critics in various fields began to question all manner of established truths: settled conceptual orderings; notions of God, nature, custom, logic, morality, and rationality; and authoritative aesthetic norms. Such questioning often took place in the name of history or psychology. Secure older ways of understanding, representing, and governing the world appeared to be contingent creations of the past, or grounded in mistaken ideas about how human beings functioned, or both. In any event, they appeared to be possessed of little warrant in making sense of a rapidly changing present and future.

Second, as critics undermined established truths and cast about for new ones, they repeatedly subjected the new truths they found to the acid bath of historical and psychological critique. With older truths dethroned and newer ones seemingly always precarious, methods, processes, and

⁷ For an introduction to modernism, see Peter Gay, *Modernism: The Lure of Heresy* (New York: W. W. Norton, 2007). For an important collection of essays on modernism in the social sciences, see Dorothy Ross ed., *Modernist Impulses in the Human Sciences, 1870–1930* (Baltimore and London: Johns Hopkins University Press, 1994).

techniques – ways of seeking truth – came to enjoy ever greater importance, moving into the foreground, as it were, relative to the ends toward which they were directed. This was a development with an influential analog in the natural sciences. In *The Grammar of Science* (1892), the British statistician and philosopher of science Karl Pearson had famously insisted: “The unity of all science consists alone in its method, not in its material.”⁸ This heightened emphasis on how one knew, relative to what one knew, led early twentieth-century scientists to pay special attention to how they deployed concepts, how they thought about troublesome questions like causation, and what they could and could not claim. In a world marked by incessant change and the pressure of constant revision, methods, processes, and techniques began to assume a kind of intellectual prominence, and to do a kind of intellectual work, that they had not before.

In order to develop how these two aspects of the modernist orientation are linked, I proceed in this section in two steps. To begin, I explore the pragmatist philosopher John Dewey’s highly influential framing of the relationship between truth and method. This exploration is intended to orient the reader, by way of a celebrated exemplar of the modernist *Zeitgeist*, to the turn to process in American legal, political, and economic thought. Next, I identify the principal features of American legal, political, and economic thinkers’ own framing of the relationships between truth and method as they forged their turns to process. As I will make clear, if there are points of correspondence between Dewey’s framing and theirs, there are also striking differences.

Truth and Method in the Thinking of John Dewey: A Brief Excursus

John Dewey was by far the most celebrated American philosopher of the first half of the twentieth century. Quite apart from his enormous corpus of work as a professional philosopher, Dewey was a major contributor to (and sometimes even the shaper of) debates in fields ranging from education to art, politics to psychology. “In America’s intellectual coming of age,” his student Sidney Hook breathlessly declared in 1939, “no person

⁸ Karl Pearson, *The Grammar of Science* (London: Adam & Charles Black, 1900 [1892]), p. 12 (emphasis omitted). For an account of the related emphasis on practice in the twentieth-century human sciences, see Joel Isaac, *Working Knowledge: Making the Human Sciences from Parsons to Kuhn* (Cambridge, MA: Harvard University Press, 2012).

has played a more important role than John Dewey.”⁹ It is Dewey’s framing of the relationship between truth and method – one that was familiar to several of the legal, political, and economic thinkers who form the subject of this book – that is of interest here.

In *The Quest for Certainty* (1929), based on his Gifford Lectures delivered at the University of Edinburgh, the seventy-year-old Dewey traced the history of philosophy and brought together many themes he had developed over the preceding decades. He deplored philosophy’s historic search for unchanging abstract truths and its corresponding deep-seated disdain for practical activity in the real world of flux. The problem, Dewey argued, had begun with the ancient Greeks:

[Greek ideas] brought with them the idea of a higher realm of fixed reality of which alone true science is possible and of an inferior world of changing things with which experience and practical matters are concerned. They glorified the invariant at the expense of change, it being evident that all practical activity falls within the realm of change. *It bequeathed the notion, which has ruled philosophy ever since the time of the Greeks, that the office of knowledge is to uncover the antecedently real, rather than, as is the case with our practical judgments, to gain the kind of understanding which is necessary to deal with problems as they arise.*¹⁰

Dewey’s modernist world is one dominated by ceaseless flux: the truths of yesterday are not those of today or tomorrow. This is why it is possible for him to speak pejoratively of philosophy’s ancient preoccupation with the “*antecedently real*,” a reality allegedly preceding the inquirer and his or her situation, that (for Dewey) has little sway in the here and now. The concept of an “*antecedently real*” would have made no sense to the ancient Greeks, for whom reality was timeless. For Dewey, who insistently sets reality in time, the concept is meaningful. Philosophy should concern itself not with knowledge aimed at approximating the “*antecedently real*,” he insists, but rather with knowledge that helps us solve “*problems as they arise*.” This requires a revalorization within philosophy of “*practical activity*.”

⁹ Sidney Hook, *John Dewey: An Intellectual Portrait* (New York: John Day, 1939), p. 4. On Dewey and pragmatism, I have relied on Robert B. Westbrook, *John Dewey and American Democracy* (Ithaca and London: Cornell University Press, 1991); Sidney Hook, *Pragmatism and the Tragic Sense of Life* (New York: Basic Books, 1974); Morton G. White, *The Origin of Dewey’s Instrumentalism* (New York: Columbia University Press, 1943); and Hook, *John Dewey*.

¹⁰ John Dewey, *The Quest for Certainty: A Study of the Relation of Knowledge and Action* (New York: Capricorn Books, 1960 [1929]), pp. 16–17 (emphasis added).

Dewey's writings repeatedly emphasize the importance of doing, making, building, acting, manipulating: practical activity of every sort. Thought only acquires meaning in and as action.¹¹ In this regard, Dewey fully shares early twentieth-century modernist philosophy's preference for action over abstract thought, a valorization that would lead (depending on the philosopher) in dramatically different directions, including the glorification of violence.¹² In Dewey's case, however, the valorization of practical activity translates into an emphasis on processes, methods, and techniques. For him, knowledge related to acting reduces to knowledge of processes, methods, and techniques – indeed, tools of every sort – which is all we have to take us from our current problems to their future resolutions. Those methods should always be improved upon: “concrete security of values lies in the perfecting of *methods* of action.”¹³

As is well known, Dewey held out the scientific experimental method as the model of method.¹⁴ For him, the key to the scientific experimental method was the publicity of its exercise and its results, which would allow its efficacy to be judged by the broader community.¹⁵ This requirement of publicity meant that the scientific experimental method flourished best in a thoroughly democratic polity. Methods, for Dewey, were never to be the preserve of a select or expert few insulated from the evaluations of the broader population. If methods could be monopolized, they would simply become means for the preservation of entrenched privilege. As he put it: “The aim and end is the securer, freer *and more widely shared* embodiment of values in experience by means of that active control of objects which knowledge alone makes possible.”¹⁶ Dewey would repeatedly make the case for the application of the scientific experimental method

¹¹ As he put it: “The maintenance and diffusion of intellectual values, of moral excellencies, the esthetically admirable, as well as the maintenance of order and decorum in human relations *are dependent on what men do.*” Dewey, *Quest for Certainty*, p. 31 (emphasis added).

¹² For a brilliant account of a different direction in which the modernist crisis of knowledge led, see Gopal Balakrishnan, *The Enemy: An Intellectual Portrait of Carl Schmitt* (London: Verso, 2000).

¹³ Dewey, *Quest for Certainty*, p. 36 (emphasis in original).

¹⁴ For a fascinating account of British debates about scientific method that preceded Dewey's thinking, see Henry M. Cowles, *The Scientific Method: An Evolution of Method from Darwin to Dewey* (Cambridge, MA: Harvard University Press, 2020).

¹⁵ “[I]n experiment everything takes place above-board, in the open. Every step is overt and capable of being observed.” Dewey, *Quest for Certainty*, p. 289. Nothing should count “save what is objective and is accessible to examination and report.” Dewey, *Quest for Certainty*, p. 229.

¹⁶ Dewey, *Quest for Certainty*, p. 37 (emphasis added).

to the world *outside* the natural and physical sciences, the world of social and political choices.¹⁷

I wish to draw attention to two intimately interrelated features of Dewey's thinking about methods, processes, and techniques. Both shed important light on the discussion to follow.

First, methods, techniques, and processes are utterly all-encompassing in Dewey's thinking. It is not just that methods, processes, and techniques are important to solving problems in the real world, but rather that everything becomes method. In *The Quest for Certainty*, and in his voluminous writings preceding it, Dewey characterizes nature, human knowledge inherited from the past, notions of the human good, and even human ends as so many methods or techniques, things that are not so much finished as things that direct inquiry toward a future result or conclusion.¹⁸ For example, in *Theory of Valuation* (1939), Dewey argues that ends formulated in light of any particular problem ("ends-in-view") are only methods that direct processes toward solutions. Once one had reached "the end or outcome actually effected," the end-in-view could be

¹⁷ In *Theory of Valuation* (1939), his critique of logical positivism, Dewey would argue that, when it came to social and political values, "[a]ppraisals of courses of action as better and worse, more and less serviceable, are as experimentally justified as are nonvaluative propositions about impersonal subject matter." John Dewey *Theory of Valuation* (Chicago: University of Chicago Press, 1939), *International Encyclopedia of Unified Science*, Vol. 2, No. 4, p. 22.

¹⁸ Thus, when it comes to nature, Dewey approves its transformation from given "objects" into "data" that "signified subject matter for *further* interpretation; ... 'material to serve'; ... indications, evidence, signs, clues to and of something still to be reached; ... *intermediate, not ultimate; means, not finalities*." Dewey, *Quest for Certainty*, p. 99 (first emphasis in original; second emphasis added). Differently put, where Greek and medieval science "formed an art of accepting things as they are," modern science treated everything as "question marks," problems that initiated (and thus became part of) the search for answers. Dewey, *Quest for Certainty*, p. 99.

With respect to human knowledge inherited from the past, Dewey put it thus: "[T]he conclusions of prior knowledge are the *instruments* of new inquiries, not the norm which determines their validity." Dewey, *Quest for Certainty*, p. 186 (emphasis in original). This transformation of the corpus of past knowledge into methods was precisely how Dewey thought schools should operate.

For their part, notions of the good were "hypotheses," "intellectual instruments to be tested and confirmed – and altered – through consequences effected by acting upon them." Dewey, *Quest for Certainty*, p. 277. Indeed, Dewey argues that thinking of the good as method, process, or technique is a positive thing because it will drive men to be much more careful in crafting their notions of the good: "When [the good] is apprehended as a tool and only as a tool, an instrumentality of direction, the same scrupulous attention will go to its formation as now goes into the making of instruments of precision in technical fields." Dewey, *Quest for Certainty*, pp. 277–278.

judged for its effectiveness in getting to that outcome, just as any other method could.¹⁹ Not surprisingly, this makes methods loom very large in Dewey's thinking relative to the ends that those methods are supposed to secure. Dewey saw his emphasis on method as something that distinguished his thinking from that of philosophers in the past. Toward the end of *The Quest for Certainty*, he observes: "The various modifications that would result from adoption in social and humane subjects of the experimental way of thinking are perhaps summed up in saying that it would place *method and means* upon the level of importance that has, in the past, been imputed exclusively to ends."²⁰

Second, methods are always directed toward an as-yet-unrealized future. As Dewey put it more generally: "Directed activity . . . goes out to meet future and as yet unexperienced situations."²¹ What Dewey is seeking in his emphasis on methods, processes, and techniques, then, is a thoroughgoing reorientation of knowledge away from a given past (seeking to capture the "antecedently real") toward an unknown future (setting forth toward "as yet unexperienced situations"). Of course, this future is never to be approached blindly. The journey there is to be regulated by, and carried out through, methods, processes, and techniques, themselves always to be judged *post hoc* for their efficacy. But the endpoint of the journey, Dewey insists, cannot be known in advance. All we have right now as we look ahead of us are our methods, processes, and techniques.

I want to suggest that methods, processes, and techniques, as Dewey thinks about them, are placed "outside" history. This idea must be qualified. To be sure, *qua* tools, methods have concrete forms – just like a hammer does – that have historically identifiable origins. The situations that compel the use of methods might also be understood in historical time. But, in contrast to the ways history undermines truths that claim to lie outside it by contextualizing them, history does not undermine a method employed toward a future solution. For in the moments in which they are invoked, methods do not claim to be outside history, or to be

¹⁹ Dewey, *Theory of Valuation*, p. 29. As Dewey put it: "As with general ideas in the conduct of any natural science, these general ideas [of ends] are used as intellectual instrumentalities in judgment of particular cases as the latter arise; they are, in effect, tools that direct and facilitate examination of things in the concrete while they are also developed and tested by the results of their application in these cases." Dewey, *Theory of Valuation*, p. 44.

²⁰ Dewey, *Quest for Certainty*, pp. 278–279 (emphasis in original).

²¹ Dewey, *Quest for Certainty*, p. 171 (emphasis added).

removed from historical context, only to be better or worse, hence more or less provisional, attempts to deal with particular problems that present themselves. The crucial quality of provisionality associated with methods comes from the fact that, in order to serve, methods must leap out of, project beyond, their immediate context and work toward an unknown future. We never know in the here and now how our methods will fare; perhaps they will do the job; perhaps they might need to be switched out for other methods. This is especially true in the world of constant change that Dewey imagined himself to inhabit, where the past would not repeat itself in the future. In such moments, emphasizing the historical origins of methods, or placing them in historical context, is simply beside the point. Picking up a hammer as a tool in the here and now implies that, were the hammer not to do the job, another tool might be picked up. Knowing the historical origins of a hammer or situating it in historical context does not capture (hence does not touch) its essential provisionality *qua* tool.

For the foregoing reasons, thinking historically serves to undermine truths, ends, and foundations, but does considerably less to diminish methods, processes, and techniques. Methods are Dewey's provisional "solution" in a thoroughly historical world insofar as they project out of it. As such, they furnish a way of living ahistorically within a thoroughly historical world. This is one reason why modernists such as Dewey, living in a world they had themselves stripped of foundations, embraced them. It is in this sense, at least for my purposes, that Jackson Pollock's paintings emblemize the modernist condition.

Truths and Methods in American Legal, Political, and Economic Thought: Some General Features

This is not a book about John Dewey. Dewey is a single (and decidedly singular) figure whose ideas about methods, processes, and techniques fit within the framework of his own coherent philosophy. However, Dewey's undermining of truths and elevation of methods are a valuable point of reference for understanding the turn to process in American law, political science, and economics. His ideas have analogs in – but also reveal differences from – the turn to process in law, political science, and economics that forms the subject of this book.

All too often, at least outside of the world of science and technology, we express impatience with the "merely" processual, methodological, or technical because it obscures, evades, delays, postpones, or frustrates what is allegedly "really" going on: substantive questions, decisions about

who “ultimately” wins or loses, or other matters more profound and important. In the twentieth century, the notion that the “merely” procedural, processual, methodological, or technical came in the way of many of the truly important questions of the day was recognized by important thinkers on the far Right, the far Left, and everyone in between. From the political Right, in *The Crisis of Parliamentary Democracy* (1923), the Nazi political thinker and jurist Carl Schmitt would contemptuously describe the liberal as someone who, if asked “‘Christ or Barabbas?’ [would answer] with a proposal to adjourn or appoint a committee of investigation.”²² From the political Left, Lenin would decry the “very absurd position, of people sitting endlessly at meetings, setting up commissions and drawing up plans without end.”²³ And there has been no shortage of American thinkers marking every point on the spectrum between Schmitt and Lenin who have remarked on how a focus on processes, methods, and techniques has blunted the substantive. What amounts to the same thing, a focus on processes, methods, and techniques is often accounted for in terms of *lack*, as a retreat from (or failure to confront) substantive politics. For example, prominent contemporary scholarly accounts of the relative weakness of mid-century American liberalism explain it as a kind of fearful reaction to the extremes of Fascism and Communism.²⁴

Using Dewey as a point of departure into the worlds of twentieth-century American law, political science, and economics, however, this book offers a rethinking. I argue that seeing the turn to process in these fields as little more than a retreat from, or an evasion of, or lack relative to, the substantive obscures a powerful modernist mode of thinking that we need to take seriously in its own right.

The turn to process in American law, political science, and economics was an entire orientation toward the world, one bearing a loose family resemblance to Dewey’s turning away from truths toward methods. It absorbed the energies and attentions of many of America’s leading legal, political, and economic thinkers. It shaped how they conceived of

²² Carl Schmitt, *The Crisis of Parliamentary Democracy* (Cambridge, MA: MIT Press, 1985 [1923]), p. 62, quoted in Tracy B. Strong, “Introduction,” in Carl Schmitt ed., *The Concept of the Political* (Chicago: University of Chicago Press, 1996 [1932]), (George Schwab trans.), p. xvi.

²³ Quoted in Jan-Werner Müller, *Contesting Democracy: Political Ideas in Twentieth-Century Europe* (New Haven: Yale University Press, 2011), pp. 39–40.

²⁴ David Ciepley, *Liberalism in the Shadow of Totalitarianism* (Cambridge, MA: Harvard University Press, 2006).

pressing issues, determined how they constructed problems, and told them what was and was not worth knowing. At its mid-century apogee, it offered up images of a world consisting of little more than processes, methods, and techniques. Disciplinary knowledge consisted of work on (and a display of mastery of) processes, methods, and techniques. These loomed large in the imagination, displacing ends, which appeared ever more distant and elusive, even secondary. It was not so much that men chose processes, methods, and techniques in order to realize their ends, many prominent thinkers asserted, but that methods, processes, and techniques worked through men, telling them in many instances what their ends were in the first place.

It is in the context of this broad orientation that American legal, political, and economic thinkers arrived at authoritative understandings of law, democracy, and markets as themselves methods, techniques, and processes. If major developments in the twentieth century – the rise of the administrative state, World War II and the struggle against totalitarianism, the Civil Rights movement – influenced the turn to process in law, political science, and economics, these developments were themselves refracted through, and understood in terms of, the turn to process.

However, exploring the turn to process in American law, political science, and economics in its own right does more than place in the foreground one of the twentieth century's major intellectual transformations. It allows one to see in considerable detail what was at stake for American legal, political, and economic thinkers as they confronted a crisis of foundations in their fields; how they "resolved" that crisis through a turn to process, method, and technique; and how they put processes, methods, and techniques to work in different ways.

As historical and psychological critiques undermined the established truths and foundations of American law, political science, and economics in the late nineteenth and early twentieth centuries, they simultaneously made a powerful case for an emerging administrative state that would displace law, democracy, and markets. Justified in terms of means–ends logic, federal, state, and municipal bureaucracies began their rise to prominence in the late nineteenth century. They raised profound and destabilizing questions. What were law, democracy, and markets to be in a world in which bureaucracy loomed large? How were they to account for themselves? What was to be the status of the truths and foundations upon which they rested?

Modernist historical and psychological critique, combined with the rise of the administrative state, was experienced by many (but not all)

prominent early twentieth-century American legal, political, and economic thinkers as what I call a disciplinary “loss of self,” a sense that what thinkers took to be intrinsic to their disciplines was at profound risk. As these thinkers sought to salvage their disciplines from the corrosive forces of modernist critique and reconstruct them, they effected a disciplinary “recovery of self,” a reorientation of their fields that took the form of a turn to process.²⁵

What I am calling a disciplinary recovery of self in law, political science, and economics reveals a highly curious phenomenon: *a representation of older truths as newer methods*. As we shall see, in each of these fields, what had once been an assertion about the truth of the world came to be characterized as a tool or technique for thinking about the world. Truths – by dint of being approached differently, as it were – became methods. In other words, coming up with a method involved little more than a change of stance toward a familiar object. Confronted with an acute sense of the evanescence of truth, John Dewey had held up the scientific experimental method as an aspirational model. But the American legal, political, and economic thinkers who are the subject of this book, as they forged their methods out of their truths, cleaved to a rather different strand in Dewey’s thought, according to which truths, ends, and foundations all ultimately become methods.

Here matters become more complicated. To begin with, in the face of modernist historical and psychological critique, reconfiguring truths as methods allowed American legal, political, and economic thinkers to shield their truths. Truths-become-methods were, after all, “only” tools that could be picked up or set down as the occasion demanded, “merely” methods for solving problems and bringing about future solutions. They thus acquired the crucial aura of provisionality associated with methods and tools. This had the effect of insulating them from modernist critique, placing them “outside” the corrosive forces of history in the sense articulated above.

But truths-become-methods never entirely shed their prior lives as truths. They always possessed a slippery “as if” character, one that permitted American legal, political, and economic thinkers – even as they

²⁵ For an account that assumes that the regulatory tradition has always been dominant in American history, and that therefore does not see the modernist challenge that enabled the twentieth-century administrative state as posing any significant questioning of the established traditions of American legal, political, or economic thought, see William J. Novak, *New Democracy: The Creation of the Modern American State* (Cambridge, MA: Harvard University Press, 2022).

insisted that they were talking “only” about methods – to slide easily between truth and method, foundation and tool, solidity and provisionality, faith and skepticism. Truths-become-methods could thus serve various functions and play multiple roles. On the one hand, in keeping with Dewey’s understanding, they could seemingly project, like so many provisional tools, into an unknown future and insulate themselves from modernist critique. On the other hand, while retaining the guise of provisional tools, they could work in a more conservative fashion, instantiating truths already known, reconfirming the antecedent rather than reaching toward the unknown. At different moments, and even within the thinking of a single thinker, one or the other of these distinct functions and roles might predominate.

In tracing the careers of the various truths-become-methods of American law, political science, and economics over the period between 1870 and 1970, this book explores these different functions and roles or, in other words, the distinct uses to which truths-become-methods were put. In doing so, it advances the following general historical account, one that broadly holds for law, political science, and economics over this period.

Especially in the early twentieth century leading up to the New Deal, when the modernist critique was at its height and there was a measure of widespread enthusiasm for the administrative state, the turn to process in law, political science, and economics served to shield older truths by representing them as methods. Paradoxically, this had as one of its major effects the legitimization of (and accommodation to) the burgeoning administrative state. Modernist legal, political, and economic thinkers were aware that the administrative state threatened the traditional domains of courts, legislatures, and markets. To represent law, democracy, and markets as methods – to argue that they were good for some things, and not for others – was a way of (at least relatively speaking) rendering them provisional tools, dethroning them, and placing them on the same level as administration. It was a way of arguing that law, democracy, markets, and administration were all different, but equivalent, methods that could and should be employed in the modern polity depending upon which problem one needed to solve.

Such kinds of arguments would continue into the post-World War II period. Influential postwar renderings of law, democracy, and markets as methods, techniques, and processes were built upon accommodating and accepting the administrative state as an established feature of the landscape. As such, they treated law, democracy, markets, and administration

as so many tools in the toolkit of the modern polity. But vocal opposition to the administrative state had begun in the 1930s (especially in economics). As postwar American thinkers tempered their enthusiasm for an overweening administrative state after the wartime encounter with totalitarianism, and as they began to struggle with the challenges posed by the Civil Rights movement, truths-become-methods began to be put to more conservative uses.²⁶

Now, while never giving up the aura of provisionality associated with tools, methods, techniques, and processes became thicker, denser, more all-encompassing, less ways of accommodating economic redistribution and bringing about racial justice than ways of stalling or defeating them. At the same time, in noteworthy instances, they were less devices that produced clarity and more tools that, in the hands of monopolizing experts, engendered vagueness, imprecision, and indistinction. In sharp contrast to Dewey's experimental model of science, and even to the languages of hyper-rational Cold War social science, it was precisely the *imprecision* of postwar legal, political, and economic tools that made them valuable. The modernist legal, political, and economic tools of postwar America came to be suffused, as I shall show, with the early modern temporalities of the English common law. The postwar career of legal, political, and economic methods thus shows how the modernist transformation of truths into methods could serve conservative, even traditionalist, ends, albeit not in the name of truths, but in the name of methods.

At its heart, this book is animated by a concern to explore, through the writings of American legal, political, and economic thinkers between 1870 and 1970, a complex of modernist problems and preoccupations. These include the intimate relationship between the loss of truth and the reach for method; the experience of living in a world in which there is "only" method; the inhabiting of a space in which different political positions are worked out in the language of method, which can be clear or imprecise, speed up or slow down, facilitate or impede change; and, perhaps most important, the fraught and complicated relationship between method and history, the special ways in which "provisional"

²⁶ For a recent examination of the impact of the encounter with totalitarianism on American thought, see Dorothy Ross, "Whatever Happened to the Social in American Social Thought? Part 1," *Modern Intellectual History* Vol. 18, No. 4 (2021): 1155–1177 and "Whatever Happened to the Social in American Social Thought? Part 2," *Modern Intellectual History* Vol. 19, No. 3 (2022): 268–296.

methods insulated from history enable projection into an open future but also a reconfirmation of pasts already known, the ways in which methods simultaneously repudiate and rehabilitate pasts. These were very much the concerns of the legal, political, and economic thinkers who form the subject of this book. As I shall suggest in the conclusion, they remain ours.

In exploring how American legal, political, and economic thinkers between 1870 and 1970 worked through these modernist problems and preoccupations, I seek to make visible to the reader their strange, partly bloodless and partly Burkean, simultaneously alienating and alluring, ideational world. This was an ideational world in which thinkers tarried with method, saw the world through and as method, one in which methods took precedence over ends, methods determined ends, and methods worked through those who were supposedly their masters. I endeavor to portray this world in its beauty and in its ugliness. To appreciate its complex languages does not mean that it should not be judged for the distastefulness of its results. However, it also does not mean that our judgments should blind us to the ways in which this world still speaks to us. In this spirit, while I do not offer a relentlessly “political” reading of the turn to process in American law, political science, and economics between 1870 and 1970 – which in any case would be the easiest thing to do in a book about the ideas of a group of largely elite white male thinkers – I provide the reader plenty of material for coming up with such a reading on his or her own.

In the following section, I discuss what the book covers and provide a brief overview of the historical trajectory it traces.

THE TRANSFORMATION OF LEGAL, POLITICAL, AND
ECONOMIC THOUGHT IN THE UNITED STATES, 1870–1970:
COVERAGE AND OVERVIEW

It must be emphasized at the very outset that the American legal, political, and economic thinkers discussed in this book do not represent the totality of American legal, political, and economic thought in the century that stretched from 1870 to 1970. To begin with, who counts as a “legal,” “political,” or “economic” thinker must necessarily be up for debate. In this study, especially for the twentieth century, I have chosen to focus principally on elite law professors and judges, professional political scientists, and professional economists.

Even when it comes to this circumscribed (but still overwhelmingly enormous) group, I exclude many important bodies of thought and

countless major thinkers. This is because, in lieu of aiming for comprehensive coverage of the disciplines of law, political science, and economics, I have chosen to follow discrete and specific lines of thinking that fit my narrative of the modernist transformation of truths into methods. Thinkers who readily embraced the modernist critique of law, political science, and economics and went in another direction are not central to my narrative. If the reader understands this, he or she is less likely to interrogate whether I account for “all” of American legal, political, and economic thought between 1870 and 1970. That is not my goal.

Thus, in the case of law, I focus on how legal proceduralism – a term I use loosely to denote a sweeping “proceduralization” of law – rose in prominence. In the case of political science, I concentrate on political pluralism and particularly on changing conceptions of the group. In the case of economics, I center on representations of *homo economicus* and the market in the context of microeconomics or price theory. Macroeconomics, where such representations were also important, is less prominent, while other important developments that became prominent after 1970 – game theory and behavioral economics – are omitted more or less entirely. Barring a few cases, I also leave out discussions of international developments. The critics of the turn to process – who were always around – are also given relatively short shrift to allow the book’s focus to come through. They are not, however, absent.

All these qualifications notwithstanding, the legal, political, and economic thinkers that I have chosen to focus on were undoubtedly among the most important of their time, with credible (but not unchallengeable) claims not only to represent highly influential segments of their disciplines, but also to have centered on (what would come to be seen as) the very core of their disciplines. Not surprisingly, they display crucially important differences vis-à-vis one another and over time, varying attitudes toward the administrative state, and (most important) very different ways of thinking about and representing and using the turn to process.

Let me turn, then, to an overview of the historical trajectory offered by this book.

The American legal, political, and economic traditions of the nineteenth century were highly variegated affairs. It is safe to conclude, however, that until roughly the final quarter of the nineteenth century (the precise time frame varies depending upon the discipline), all three traditions were resolutely *foundational* knowledges, resting on given notions of God, truth, morality, justice, rationality, custom, man, nature, and society. To the extent that they bore a relationship to history – and all

did – that history was itself a foundational or teleological affair, advancing a story about historical time imbued with meaning, order, and direction.

Questions of method were never absent from nineteenth-century American legal, political, and economic thought. Indeed, commitments to specific methods were absolutely central to these fields' understanding of themselves. To the extent that methods mattered, however, those methods were imagined as essential to revealing, recognizing, maintaining, restoring, or advancing a given truth, foundation, or teleology. Methods were crucially important, in other words, but came fused with truths and foundations.

Thus, the mainstream of nineteenth-century American lawyers was committed to the precedential method of the common law but insisted that that method was essential to realizing the truth of law, whether custom, morality, rationality, or justice. Many American political thinkers would represent the formal structure of the American polity as a method that realized an underlying political truth inasmuch as the polity was founded in a “people” whose nature was knowable or in a politico-legal entity called the “state” where rights and duties were already inscribed (the latter concept derived from German state theory and is not to be confused with the meanings the term “state” would take on in the twentieth century). Much the same was true of nineteenth-century American economic thinkers, who often took their cues from British thinkers. British classical political economy was founded upon the idea of the inherent value of human labor, which meant that goods embodying labor were understood to possess a “natural” value. *Qua* method, the market helped realize this natural value.

Beginning around 1870, a major transformation in the American university got under way. Older denominational academic institutions were rebuilt and newer ones – the Johns Hopkins University being the most prominent example – set up along the lines of the German research university. Over the next few decades, fields of inquiry hitherto only loosely distinguished from one another began to reconstruct themselves as disciplines. Professional associations were created, flagship journals launched, annual meetings scheduled, departments reorganized, doctorates awarded, and pedagogies rethought.²⁷

²⁷ See Dorothy Ross, *The Origins of American Social Science* (New York: Cambridge University Press, 1991), ch. 3.

This structural transformation in American intellectual life took place during a period marked by a painfully acute modernist apprehension of the problem of knowledge. Thinkers were compelled to confront urgent problems for which older knowledges had not equipped them: the management of large cities, the assimilation of diverse populations, the curbing of monopolies, the regulation of capital markets, capital–labor conflict, and agrarian unrest. Rapid scientific and technological change was suggesting the tentativeness of all knowledge. As received knowledges seemed less and less adequate, there began an interrogation of the foundations of law, political science, and economics in the name of history and psychology (and frequently both together). This questioning took very different forms in law, political science, and economics, but certain points of correspondence can be identified.

In the name of becoming “conscious” of the world around them, anti-foundational legal, political, and economic thinkers of various persuasions insisted that the world was “merely” historical, the changeable product of human intellection and labor. No a priori truth or foundation or teleology, especially one hitherto accepted “blindly” or “unconsciously,” could account for it. In the case of law, the common law’s commitments to antiquity and continuity, along with its claims to embody truth, morality, logic, rationality, and the customs of the community, came under attack. In the case of political science, thinkers began to take apart the idea of a “people” or a politico-legal foundation like the “state.” In economics, older ideas that value inhered in human labor and that there was a “natural price” against which market prices could be evaluated collapsed. They were superseded by a marginalist revolution that located economic value in the preferences of the economic actor. However, marginalist ideas themselves came under (and were overwhelmed by) sustained historical critique.

At the same time, the imperative of “conscious” knowledge engendered by a sense of living in a historical world pointed insistently toward its own limits. Psychology and its various cognate disciplines repeatedly emphasized the limits of man’s capacity for “conscious,” rational, and deliberate knowledge. In *Drift and Mastery* (1914), striking a Freudian note, the journalist and public intellectual Walter Lippmann would write: “The massive part of man’s life has always been, and still is, subconscious Our life is managed from behind the scenes: we are actors in dramas that we cannot interpret. Of almost no decisive event can

we say: this was our own choosing.”²⁸ As a related matter, many insisted that there was simply too much knowledge in the modern world for man to take in.

This focus on man’s cognitive incapacities further undermined the foundations of law, political science, and economics. In the eighteenth century, the common law judge had been likened by Sir William Blackstone to a “living oracle,” a quasi-mystical figure able to discern the customs of the community for which he declared the law. Alternatively, the law-giving skills of the common law judge had been characterized as possessed of a rationality that distinguished legal decision-making from political decision-making. In the early twentieth century, by contrast, prominent judges wrote publicly about the non-rational bases of their own decision-making, eroding the crucial line that had separated law from politics. Where nineteenth-century political scientists had emphasized that the nature of the “people” (or the rights and duties inscribed in the foundational idea of the “state”) were knowable, early twentieth-century political scientists and public intellectuals wrote at length of the circumscribed intellectual abilities of the average citizen – his inability to understand complex issues, on the one hand, and his subjection to the sway of irrational crowds, party political machines, and demagogues, on the other. This suggested to many that the citizen (and, by extension, the “people”) could no longer serve as a reliable foundation for public affairs. Rejecting classical labor theories of value, marginalist economists had switched to understanding value in terms of the utility-maximizing activity of *homo economicus*. But psychologically minded economic thinkers would speak of how *homo economicus* was unable to know and rank his own choices and preferences; how his market behavior was driven not by the need to satisfy already known wants but by other atavistic drives; and how modern advertising manipulated men.

Within the newly formalizing disciplines of law, political science, and economics, such historical and psychological critiques were experienced by many as an undermining, an erosion of disciplinary specificity, a kind of disciplinary loss of self. Where to look? Biblical notions of man had crumbled with the rise of Darwinism, forcing thinkers to identify new contexts and constellations in which man would be placed. Similarly, the erosion of the nineteenth-century foundations of law, political science, and economics in the name of history and psychology pushed in the

²⁸ Walter Lippmann, *Drift and Mastery: An Attempt to Diagnose the Current Unrest* (Englewood Cliffs: Prentice-Hall Inc., 1961 [1914]), p. 147.

direction of new contextualizations *in terms of* other disciplines. Law, politics, and economics would be “explained” in terms of one another, as well as in terms of history, sociology, and psychology. The point is not that those who sought to explain one discipline (say, law) in terms of another (say, psychology) always had a serious grounding in that second discipline. Often, they did not. The point is rather that to explain law in terms of sociology or psychology was to index the loss of the foundations of law, to point to the dissolution of a self-understanding of law. Much the same transpired in the case of political science and economics.

It is precisely around this time of disciplinary loss of self, and in large part *because of* it, that what historians have called the “organizational revolution” got under way. If courts, legislatures, and markets could manifestly not do the job, and could no longer be defended on older grounds, structured alternatives would have to be created. In *The Promise of American Life* (1909), one of the key texts of the Progressive Era, Herbert Croly argued that the most pressing concern of the “current situation” was “specialized organization.”²⁹ Calls for administrative “control” of economic and social arrangements would appear with ever greater frequency in the United States after World War I. John Dewey was one who joined the chorus of thinkers who endorsed “control,” a goal he preferred infinitely to the impossible search for “certainty.”³⁰

²⁹ Herbert Croly, *The Promise of American Life* (Arthur M. Schlesinger, Jr. ed.) (Cambridge: Belknap Press, 1965 [1909]), quoted in Ross, *Origins of American Social Science*, p. 153.

Historians have been studying the “organizational revolution” for some time now. Key early works include Robert H. Wiebe, *The Search for Order, 1877–1920* (New York: Hill & Wang, 1966) and Alfred D. Chandler, *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, MA: Belknap Press of Harvard University Press, 1977). For a series of landmark articles articulating major themes and tracing a trajectory, see Louis Galambos, “The Emerging Organizational Synthesis in Modern American History,” *Business History Review* Vol. 44, No. 3 (1970): 279–290; “Technology, Political Economy, and Professionalization: Central Themes of the Organizational Synthesis,” *Business History Review* Vol. 57, No. 4 (1983): 471–493; “Recasting the Organizational Synthesis: Structure and Process in the Twentieth and Twenty-First Centuries,” *Business History Review* Vol. 79, No. 1 (2005): 1–38. See also Brian Balogh, “Reorganizing the Organizational Synthesis: Federal-Professional Relations in Modern America,” *Studies in American Political Development* Vol. 5, No. 1 (Spring 1991): 119–172.

³⁰ “[T]he quest for certainty becomes the search for methods of control; that is the regulation of conditions of change with respect to their consequences.” Dewey, *Quest for Certainty*, p. 128. To be sure, given Dewey’s way of understanding the world, “control” would itself always only be a method.

Viewed from the perspective of legal traditionalists, the new bureaucracies that were ushered in to exercise “control” interfered with private property and contract rights believed to be grounded in nature or history; made decisions affecting social orderings without the requisite legitimacy of common law courts; and curtailed rights without legal safeguards. From the perspective of traditionalist political science, these bureaucracies were seen as chipping away at the power of the people to govern themselves. If the bureaucrat-expert was not responsible to the people except in the most attenuated of ways, where did power lie? From the perspective of marginalist economics, bureaucracies stood for distortions of free individual choices and interferences in the operations of the markets through which those choices could be realized.

If those implacably opposed to bureaucracies dug their heels in, during the early twentieth century, the modernist legal, political, and economic thinkers that form the focus of this study adopted a different approach. They largely accepted the historical and psychological critiques of their disciplines. Many also became qualified supporters of the administrative state, of getting things done through specialized bodies unimpeded by the obstacles that traditional understandings of law, democracy, and markets posed. However, this left them in something of a precarious situation. Accepting the modernist critique of their disciplines and even supporting administrative interference with existing legal, political, and economic orderings brought the risk that their disciplines might be dissolved into other disciplines even as courts, legislatures, and markets were edged out by the administrative state.

It is in this context that the turn to process first becomes visible. If law, democracy, and markets had embodied truths, foundations, and moralities in the nineteenth century (some older, some of more recent vintage), those truths would now be reimagined as processes, methods, and techniques. In this new form, with disciplinary essences shielded from the forces of history and psychology, law, democracy, and markets would infiltrate the administrative state, supplement it, limit it, or oppose it. The overall impact on understandings of law, democracy, and markets would be immense, however, extending well beyond their engagements with the state.

Thus, law began to be characterized not as standing for truth, morality, or rationality, but as a way of doing things with legal procedure as its core. There was a massive increase in studies of procedure in the 1920s. But the turn to procedure would not be restricted to studying procedures followed by courts or administrative agencies. In New Deal era debates

over the administrative state, law as a whole would be characterized as a “process”; substantive doctrines would be recast as techniques; and US constitutional law would assign itself the new task of policing the procedures and processes of democracy. Procedure would become the ontology of law. It would cast its aura over law in general, “proceduralizing” much of it as a result.

In the case of political science, as the old politico-legal concept of the “state” went into rapid decline in the early twentieth century, so did the idea that the American polity could be founded in any meaningful sense in the “people.” A search for new foundations led, in the late nineteenth century, to a focus on a very old preoccupation of American political thinkers: the group. If the group had once been a social truth founded in human nature, by the early twentieth century American political thinkers would begin to focus on the interaction of groups: a “group process.” That group process in turn would be represented as a technique or a method, something that could be mobilized by (and could simultaneously render more democratically legitimate) a polity increasingly dominated by bureaucracies.

In economics, the historical and psychological critique of the *homo economicus* of the marginalist imagination would lead in the 1920s to highly self-conscious reconfigurations of *homo economicus* as a method or technique that did not correspond to how real human beings thought and acted and that could be embraced as a useful technique not only by the economist but by the market actor himself. Such representations of *homo economicus*, along with representations of the market as a “game,” would also admit of coexistence with the administrative state.

To different degrees depending on the discipline, then, early versions of the turn to process served to accommodate (or at least to indicate the possibility of living with) the administrative state. But opposition to the administrative state began in the 1930s, especially in economics, also taking the form of technique. With the rise of Keynesian theory and the coeval growth of the administrative state, neoclassical economists fearful of the displacement of the market by the state would make *homo economicus* even more of a technique, detaching him from the realm of the “economy” and setting him loose as a free-floating technique that could potentially be applied in context after context. At the same time, as they worried about socialism, thinkers such as Friedrich von Hayek would begin to reconfigure the market as a knowledge technology that would be explicitly set up as a competitor process vis-à-vis the knowledge-gathering processes of government planning.

As the administrative state grew enormously in the 1930s and 1940s under the impact of the Great Depression and World War II, it came to possess, as it were, a life of its own. The sociologist William Whyte's well-known *The Organization Man* (1956), a study of the conformist mid-twentieth-century bureaucrat-executive, would pronounce the mid-twentieth century a veritable "age of organization."³¹ As the study of (now enormous) public and private administrative organizations truly took off, bureaucracies came to be represented as their own objects, worlds unto themselves, models of the wider world.³² These organizations would *themselves* be represented in the languages of process. Processes, methods, and techniques assumed the foreground in the study of organizations, edging out the ends they were supposed to serve, subsuming the individuals who staffed them.

In his landmark texts, *Administrative Behavior* (1947), *Public Administration* (1950), and *Organizations* (1958) (the last two co-authored), the prodigious political scientist, economist, psychologist, computer science and artificial intelligence pioneer (and 1978 Economics Nobel Laureate) Herbert Simon gives us a glimpse into this new understanding of means–ends relationships in mid-century organizations.³³ Simon would argue that ends within organizations were always means for other ends, until all that appeared was an endless succession of means. Here is how Simon discusses the problem of intermediate goals within bureaucracies, which serve as means to final goals:

Each decision involves the selection of a goal, and a behavior relevant to it; this goal may in turn be mediate to a somewhat more distant goal; and so on, until a relatively final aim is reached. In so far as decisions lead towards the selection of final goals, they will be called "value judgments"; so far as they involve the implementation of such goals they will be called "factual judgments."

Unfortunately, problems do not come to the administrator carefully wrapped in bundles with the value elements and the factual elements neatly sorted. For one

³¹ William H. Whyte, Jr., *The Organization Man* (New York: Simon & Schuster, 1956), p. 12.

³² Hunter Heyck uses the arresting Heideggerian phrase "bureaucratization of the world picture" to characterize how bureaucracies would become the model for large areas of social science. Hunter Heyck, *Age of System: Understanding the Development of Modern Social Science* (Baltimore: Johns Hopkins University Press, 2015), p. 9.

³³ Herbert A. Simon, *Administrative Behavior: A Study of Decision-Making Processes in Administrative Organization* (2nd ed.) (New York: Free Press, 1957 [1947]); Herbert A. Simon, Donald W. Smithburg, and Victor A. Thompson, *Public Administration* (New York: Alfred A. Knopf, 1950); James March and Herbert Simon, *Organizations* (2nd ed.) (Cambridge, MA: Blackwell, 1993 [1958]).

thing, goals or final objectives of governmental organization and activity are usually formulated in very general and ambiguous terms – “justice,” “the general welfare,” or “liberty.” Then, too, the objectives as defined may be merely intermediate to the attainment of more final aims. For example, in certain spheres of action, the behavior of men is generally oriented around the “economic motive.” Yet, for most men, economic gain is not usually an end in itself, but a means for attaining more final ends: security, comfort, and prestige.³⁴

Simon’s discussion here is revealing because it shows us how the orientation toward means in mid-century organizational science went far beyond a straightforward bracketing of the question of ends. Ultimate ends were either too vague so that all one was really left with was means, or else represented as means to other ends, which led to the same result.

As Simon foregrounded means and processes over ends and goals, he would also argue that the human being’s limited capacities for knowledge and decision-making could be put to use within the endless processes that organizations were now seen to be.³⁵ The goal was to exploit man’s bounded rationality (Simon’s term), to set up the premises that would condition (but never obviate) man’s choices. Individuals could be made to “choose” within organizations, just as laboratory rats “chose” when placed in a maze. When it came to questions of choice, Simon had once written, “we need a less God-like and more rat-like chooser.”³⁶ Man thus became a node in a structured decision-making process, one node leading to another, up and down and sideways across the organization’s structure.

Through his writings on organizations, Simon was ultimately advancing an account of man and society, suggesting administration as a model for society. The only real difference between formal organizations and social organizations, Simon and his coauthor James March suggested in *Organizations*, was that the “influence processes” in formal organizations were “specific” while those in society, in general, were “diffuse.”³⁷ As Simon put it: “Social institutions may be viewed as regularizations of the behavior of individuals through subjection of their behavior to stimulus-patterns

³⁴ Simon, *Administrative Behavior*, pp. 4–5 (citations omitted).

³⁵ Simon was hardly the first thinker to structure the study of organizations around human decision-making. He was greatly influenced by Chester Barnard’s *The Functions of the Executive* (Cambridge, MA: Harvard University Press, 1938).

³⁶ Quoted in Hunter Crowther-Heyck, *Herbert A. Simon: The Bounds of Reason in Modern America* (Baltimore: Johns Hopkins University Press, 2005), p. 6.

³⁷ March and Simon, *Organizations*, p. 21.

socially imposed on them. It is in these patterns that an understanding of the meaning and function of organization is to be found.”³⁸

In Simon’s account of the mid-century state, a set piece of Cold War social science, we get a sense (from organizational science) of just how encompassing the turn to process had become in intellectual life more generally. While the aura of precariousness associated with tools lingers, some of the restlessness, flexibility, and endless openness to revision to be discerned in Dewey’s writing seems to have gone missing. In postwar American legal, political, and economic thought, correspondingly, even as thinkers continued to talk “only” about tools, processes, methods, and techniques would loom larger than ever, becoming thicker and denser. With the experience of the wartime confrontation with totalitarianism fresh in thinkers’ minds, furthermore, conservative voices would play a more prominent role, even if they had never been absent in the prewar decades.

In the 1950s and 1960s, a dominant Legal Process School would insist that legal procedures and processes were more central than legal substance, that legal substance was really a function of legal procedure. In postwar pluralist political science, the processes of group interaction were represented as ubiquitous and indispensable techniques of governance that secured consensus, ensured that political power was profoundly fragmented, and made it impossible to pinpoint who actually governed the community. Meanwhile, political scientists’ studies of bureaucracies showed how administrative thinking in terms of means rather than ends not only aligned perfectly with pluralism as a technique of governance but showed how man’s ends could only be revealed through the means available to him. In postwar “economics imperialism,” *homo economicus* as technique, unmoored from the “economy” since the 1930s, would be applied to realms ranging from law to politics to administration to the family and sexuality, the application of the technique to such diverse realms indexing over and over again the ubiquity of the technique and the predictability of its results, even as it made a case against Keynesian and other kinds of government intervention in markets. At the same time, to the same end, the market would be characterized as an ever more encompassing procedure or technology for the acquisition of information, a “spontaneous order” that ran through man and told him what his ends and goals were. In law, political science, and economics, these renderings were often deployed, in different ways depending on the discipline and

³⁸ Simon, *Administrative Behavior*, p. 109.

thinker, *against* the administrative state, economic redistribution, democratization, and the Civil Rights movement.

The complexities of the turn to process in post-World War II American law, political science, and economics go further, suggesting points of difference from our received image of Cold War social science. Albeit not driven by Dewey's sense that methodological commitments to clarity, publicity, and democracy were intertwined, logical positivist-influenced Cold War social scientists insisted on maximum clarity in the employment of techniques. Their insistence on methodological purity is of a piece with what students of Cold War social science call its hyper-rationalism, its attempt to develop (with bureaucracy as a model) "a rigorous formal language for the description and analysis of behavior" within "complex, hierarchic, adaptive systems."³⁹ In Cold War social science historiography, works that shared this orientation, such as Talcott Parsons' *The Social System* (1951), David Easton's *The Political System: An Inquiry into the State of Political Science* (1953), and even Paul Samuelson's *Foundations of Economic Analysis* (1947), often stand in for Cold War social science *tout court*.⁴⁰

However, hyper-rationalism does *not* describe the turn to process in postwar American law, important strands of postwar political science, and even postwar economics, even if they undoubtedly share features with Cold War social science. As I shall show in some detail, especially in its conservative iteration, the post-World War II turn to process was not – indeed, was very deliberately not – something that led to greater clarity. Instead, it produced a vagueness, imprecision, and indistinction that did crucial intellectual work aimed at slowing down, postponing, or defeating calls for political, economic, and racial equality. If in the prewar years, legal, political, and economic thinkers had (more or less easily) accommodated the administrative state by converting truths into methods, those truths-become-methods in the postwar period were deployed to very different ends.

Thus, in the case of law, US Supreme Court Justice Felix Frankfurter, a committed proceduralist in the pre-New Deal years, would begin to argue that the law should function as a "feeling" or "mood" to decelerate the

³⁹ Heyck, *Age of System*, p. 9. See also Paul Erickson, Judy L. Klein, Lorraine Daston, Rebecca M. Lemov, Thomas Sturm, and Michael D. Gordin, *How Reason Almost Lost Its Mind: The Strange Career of Cold War Rationality* (Chicago: University of Chicago Press, 2013).

⁴⁰ Crowther-Heyck, *Herbert A. Simon*, p. 168.

rate of constitutional change. In pushing “feeling” or “mood” as a method for law, as we shall see, Frankfurter would combine a modernist preoccupation with the limits of rational knowledge with the early modern languages of the common law. Frankfurter’s concerns would be echoed by the constitutional theorist (and Frankfurter law clerk) Alexander Bickel, whose own proceduralism in the 1950s and 1960s acquired a common lawyerly Burkean cast. In the realm of political science, the Yale pluralist Robert Dahl would insist that the unfolding of the group process produced such a radical dispersion of power in the American society of the 1950s that, in the ensuing fog of power deployed from everywhere, it was impossible to discern any center of power. Dahl’s colleague and coauthor, Charles Lindblom, would popularize the phrase “muddling through,” itself bearing a marked resemblance to the precedential common law method, to describe not only how bureaucrats worked but also how that working fitted with a pluralist society. Eventually, Lindblom would describe all politics – that is, not just bureaucratic operation – as a process of “muddling through.” In economics, Friedrich von Hayek would argue that the market as knowledge technology was a “spontaneous order,” suspended between the natural and the created, that also found itself reflected in – even as it seemed modeled upon – Hayek’s understanding of the common law.

In all these post-World War II invocations of indistinct, vague, and blurry methods, processes, and techniques, important to all the thinkers I have mentioned were thus the early modern temporalities of the common law, the system of English law grounded in custom and based on precedent that had long claimed to blur the line between continuity and change. The paradoxes of an invocation of the common law in this regard are considerable. Herbert Simon and other Cold War social scientists might have imagined society as a rational administration organized on functional and behavioral lines, explained through the rigorous techniques of mathematics and statistics. Important American legal, political, and economic thinkers, however, would imagine and engender a world in which that very administration and the modernist world of which it was a part would be suffused with, or opposed by, early modern common lawyerly temporalities that appeared in different guises – “feelings,” “moods,” “muddling through,” and mysterious “spontaneous orders.” Born out of late nineteenth- and early twentieth-century historical and psychological critiques of truth, the modernist turn to process, in its postwar conservative mode, would thus fuse with early modern ways of thinking about time.

HOW TO READ THIS BOOK

The uniqueness of this project lies in its bringing together developments in American law, political science, and economics from 1870 to 1970 to show how, viewed collectively, they reveal the turn to process as a major pan-disciplinary orientation in twentieth-century American intellectual life. Its key contribution is to “think with” the turn to process, to seek to understand it as some of its major exponents did, and to emphasize its stature as a language through which the world was approached, while also showing its changing politics.

From the preceding section, it should be clear how this book relates to and differs from current work on Cold War social science. To begin with, in my account, the turn to process in law, political science, and economics began in the late nineteenth century as a result of a modernist crisis of foundations. It was not, therefore, an artifact of the Cold War. If it might bear occasional resemblance to the received image of Cold War social science in the 1950s and 1960s, much about the postwar turn to process in law, political science, and economics as I describe it makes it look different from established understandings of the intellectual world of the 1950s and 1960s.⁴¹

Let me turn, then, to two classics of American intellectual history that cover ground very similar to mine. Edward Purcell’s *The Crisis of Democratic Theory* (1973), half a century old and still important, depicts the modernist crisis of foundations in legal and democratic theory in the first half of the twentieth century as a debate between relativism and absolutism, with relativism scoring a victory of sorts by the post-World War II period. The neo-Aristotelians of Purcell’s account who fought valiantly against relativism are not present in this book. My concern is rather with how Purcell’s modernist relativists – those who “won” the battle as he sees it – sought to refound knowledge as process, something that was going on even as they were debating the absolutists. Process was, as it were, a kind of “response” to the problem of relativism.⁴²

⁴¹ This book should also be distinguished from (but read alongside) Howard Brick’s important *Transcending Capitalism*, which looks at many of the thinkers I do, but from the perspective of their attempts to rethink twentieth-century capitalism, rather than from the perspective adopted here of beginning with process, method, and technique. Howard Brick, *Transcending Capitalism: Visions of a New Society in Modern American Thought* (Ithaca and London: Cornell University Press, 2006).

⁴² Edward A. Purcell, Jr., *The Crisis of Democratic Theory: Scientific Naturalism and the Problem of Value* (Lexington: University Press of Kentucky, 1973).

Dorothy Ross' magisterial *The Origins of American Social Science* (1991) comes closer to what I am attempting. This is because, in addition to offering brilliant readings of many of the figures I focus on in the early part of my narrative, and in dealing squarely with the implications of the modernist crisis of knowledge for American thought, Ross also identifies an early twentieth-century turn to process. But our readings and conclusions are very different. Drawing on J. G. A. Pocock's reflections in *The Machiavellian Moment* about Americans' deep-seated predilection for escaping from history, Ross insists that Americans around 1900 were unable to confront fully the consequences of living in a historical world.⁴³ She reads their early twentieth-century turn to process (with the Darwinian life process as a model) as a seeking of shelter from the challenges of history in the safe harbor of the natural. As she puts it in no uncertain terms: "the models of the social world that have dominated American social science in the twentieth century invite us to look through history to a *presumably natural process beneath*."⁴⁴ In my view, while the Darwinian idea of life as a temporal process was a crucially important engine of the modernist crisis of knowledge, the term "process" as used in various ways in the period from 1870 to 1970 does not invoke the safety of the natural. It was common, as we shall see in the pages that follow, to speak of legal, political, economic, social, administrative, market, industrial, technological, engineering, and other kinds of "processes." Furthermore, while the term "process" did conjure up an image of phenomena succeeding one another – indeed, sometimes *ineluctably* succeeding one another – twentieth-century thinkers would typically also insist that processes could be created, shaped, engineered, structured, reformed, and manipulated. The ineluctability of process was, in other words, something that could be *designed*. Even when the languages of the moral, the natural, and the traditional were invoked in reference to processes in the 1950s and 1960s, it was evident to thinkers that they were talking about *tools*. In contradistinction to Ross, then, I read the turn to process not as an escape from history into the haven of the natural, but (rather as someone like Dewey imagined it) as a way of living in history with tools, that – as "mere" tools – carried with them the possibility of projecting out of history. This would be true even in their more conservative, thicker postwar incarnations.

⁴³ J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: Princeton University Press, 1975).

⁴⁴ Ross, *Origins of American Social Science*, p. xii (emphasis added).

This book is organized as follows. Part I (“Truths (and Methods)”) consists of a chapter entitled “American Legal, Political, and Economic Thought before 1870” that discusses various foundational knowledges of law, politics, and economics that dominated until roughly 1870. This is intended to provide the background to the main story. The goal here is not to be comprehensive, but to give the reader a sharp sense of how differently nineteenth-century legal, political, and economic thinkers spoke about their subjects relative to those in the century that would follow. It will also introduce the reader to some of the truths that would later become methods.

Thereafter, the book shifts to Part II (“The Turn to Process, 1870–1970”). This is the body of the book and it consists of three extended independent essays. These are: (A) “Law: Becoming Procedure”; (B) “Political Science: The Group as Process”; and (C) “Economics: Man and Market as Technique.” Each essay can be read separately, but the full force of the argument comes through, I believe, if all are read. There is no particular order in which the essays must be read, but if they are read in sequence they will illustrate, I hope, some of the paradoxes of a world rendered process. Thus, law in the twentieth century became process in important part to defer substantive decisions to democracies and the administrative agencies they created. But democracy itself would be imagined within political science as a group process that was a technique of government. Especially to those wary of the economic redistribution that democracies could effect, democracy was supposed to be a process that should be limited by “freedom.” But “freedom” itself rested on the fragile shoulders of *homo economicus*-rendered technique and on a market that was itself a process. What one is left with, then, is a world in which processes led to other processes, exactly as the process specialists of the era (e.g., Herbert Simon) had imagined.

Covering the period from 1870 to 1970, each essay traces a similar narrative arc. Beginning in the final quarter of the nineteenth century, there was a modernist attack on disciplinary foundations as a result of an awakening to history and psychology. The foundations in question were of dramatically different vintages: centuries-old in the case of the common law, of early nineteenth-century origins in the case of political science, and much more recent in the case of marginalist economics. Although the attack took on different forms in each discipline, in each case, the attack occurred around the same time that the means–ends rationality of administration was touted as a superior way of doing things, of displacing the obvious ineptitude of courts, legislatures, and markets.

As a result of the modernist attack on disciplinary foundations, and as they took account of the rise of administration, major thinkers in each discipline would experience a disciplinary loss of self. Between 1900 and 1930, within the disciplinary mainstream, there would be calls to explain law, political science, and economics in terms of one another, as well as in terms of history and psychology. Precisely around this time, I argue, a diverse range of legal, political, and economic thinkers began to represent what were once foundations of their disciplines as processes, methods, and techniques. This was simultaneously an early accommodation of administration and a defense of disciplinary specificity, a disciplinary recovery of self.

This turn to process grew stronger during the 1930s and 1940s, when, as a result of the Great Depression and World War II, the press of administration was greater than ever before. But now (especially in economics) we also begin to see very clearly renderings of methods, processes, and techniques to oppose the administrative state. By the end of World War II, in each discipline, processes, methods, and techniques became thicker and denser, valuable in and of themselves, displacing the ends they were supposed to advance and giving knowledge its form. Around this point, they began to play a more pointedly conservative role in opposition to the Civil Rights movement, democratization, and managed capitalism, even as the invocation of methods that engendered vagueness, diffusion, and indistinction – in important part through evocations of common law temporalities – rose to the fore.

Part III (“Conclusion”), comprised of a chapter entitled “History, Method, and Fracture,” discusses briefly the career of the turn to process in law, political science, and economics after 1970 and the implications of the turn to process for history as a knowledge form.