

field as a bulwark against further encroachments by economics and other social sciences on the autonomy of law as a discipline." Indeed, it would be fair to say, despite his protestations to the contrary, that he doubts there is such a field. In addition to the fact that most law professors, with good reason, find law a boring subject, there has been, Posner notes, a "flight from humanities to law by graduate students and young faculty, who in the 1970s saw jobs and promotion opportunities and salaries falling steeply in real (that is, inflation-adjusted) terms and decided to go to law school and who today see in the field of law and literature a means of amortizing their original training." Not only does teaching in a law school generally pay much better than teaching in an English department, but the accomplishments necessary to achieve recognized expertise as a literary analyst and theoretician are much less demanding. It is hardly surprising, therefore, that whether or not it is a subject, law and literature is a burgeoning enterprise.

**THE POLITICAL IDEAS OF LEO STRAUSS.** By Shadia B. Drury.<sup>1</sup> New York: St. Martin's Press. 1988. Pp. xv, 256. \$29.95.

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As an undergraduate I was exposed to the study of the Supreme Court by the historically oriented political scientist Robert McCloskey. While I was in law school I became acquainted with the behavioral study of the Court by other political scientists. It took a while for me to assimilate what law professors had to say about constitutional law, so for several years I stopped reading what political scientists had to say. When I again started reading constitutional studies by political scientists, I came to realize that there was an entirely new—at least new to me—world out there. This was the work, I now know, of the Straussians. I have learned that there are East Coast Straussians and West Coast Straussians, though I am not yet familiar enough with the territory to provide a decent map. (As I understand it, both groups think that democracy is a Bad Thing, but one group thinks that the United States Constitution fortunately doesn't rest on democratic principles while the other group thinks that it unfortunately does.)

What I read of Straussians on constitutional law was interest-

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ing, in a quirky sort of way. Their devotion to incredibly close readings of certain classic texts was admirable, though it was sometimes unclear to me why some texts were singled out and others ignored. At the same time their works had a peculiar tone. This was partly due to the enormous self-assurance with which they offered their readings, as if they had finally uncovered the real meaning of the texts for the first time when, it seemed to me, they were offering interesting but not dazzlingly original interpretations. Partly the tone resulted from the sense the Straussians conveyed that these texts were actually contemporary documents, speaking directly and without any historical mediation—though of course with the mediation of the Straussians—to us today.

I approached Professor Shadia Drury's book with the hope that it would help me decide whether I ought to devote more time to immersing myself in Strauss's works. When I read on page four that Professor Drury "generally found his commentaries on the classic texts arid, insipid, tedious and repetitive," and that she "was sympathetic with those reviewers who were genuinely perplexed as to how such rubbish could have been published," I had a clue to the answer, even though she immediately continued that she "began to find the work of Leo Strauss fascinating, captivating, and even bewitching." By the end of the book, where Drury writes, "Strauss corrupts . . . Strauss seduces young men into thinking that they belong to a special and privileged class of individuals that transcend ordinary humanity and the rules applicable to other people," I was certain. The Straussian enterprise of close reading is useful and may yield some interesting insights, but the method and the insights are entirely independent of the political theory offered by Strauss himself.

According to Drury, Strauss's political theory relies on a distinction between the overt statements made by philosophers, their exoteric philosophy, and the true meaning of their teaching, their esoteric philosophy. I can understand the attractions of this distinction, from the point of view of ambitious academics. Because the esoteric meaning is concealed, a Straussian can make a reputation by discovering the true meaning of some text, which has been concealed and overlooked from the beginning. Of course, it also allows the academic to congratulate himself or herself for the discovery. Interestingly, too, the method appears to have some similarities to the methods of deconstruction, which are popular on the academic left these days; the esoteric philosophy is revealed by interpreting the silences and the gaps—what deconstructionists call *aporias*—in the text.

This basic distinction, though, seems unlikely to be of much use to students of constitutional law. Although Drury does not say so explicitly, I assume that Strauss did not believe that every text has an esoteric meaning, but only the texts of the great philosophers. I doubt that any of the Justices of the Supreme Court would qualify for esoteric readings. This is what appears to distinguish the Straussian approach from deconstruction, which claims that hidden meanings are concealed in every text.

Supreme Court opinions cannot qualify for Straussian readings for another reason. Strauss distinguishes between philosophers and statesmen, and, as Drury presents his thought, the philosophers come out far ahead. They are dedicated to discovery of the truth. Unfortunately for society, though, the truth is necessarily destabilizing. As Drury puts it, "the truths of philosophy are profoundly at odds with the sorts of pious myths and illusions on which *any* society must necessarily rest. The truths of philosophy therefore come into conflict . . . with *all* societies. Philosophy therefore undermines ideas that it recognizes to be necessary to the continued existence of the city." What, then, is to be done? According to Drury, "For Strauss, the task of political philosophy in the world is to educate a special elite that will exert its influence in political life." This elite, the statesmen, will be educated by the philosophers, but they won't know the truth, for if they did they would be ineffective as statesmen. As Drury says, the statesmen are "a special breed . . . capable of harboring the noble self-delusions without which the city cannot exist."

Again, this is pretty flattering to philosophers, and it might make legal academics happy if they believed that what they write in law reviews is in some sense more important than what the Justices write in the United States Reports. In this view, law review articles are examples of edifying discourse.

This suggests another connection between Straussian political theory and contemporary constitutional theory. Strauss defends the ancient philosophers against the degeneration of modernity. As Drury makes clear, the basis for the defense is that the ancient philosophers more clearly understood the role that civic virtue and dedication to the public good play in producing good government. Modern philosophers, in contrast, attempt unsuccessfully to ground government in the preferences of individuals. As this summary indicates, we might then place Strauss in the camp of contemporary civic republicans like Professor Cass Sunstein; perhaps there is something in the air in Chicago. The only difference, and of course it is an important one, is that the contemporary civic republicans

are basically optimists about the possibility of achieving civic virtue in contemporary society, while Strauss was a pessimist, at least in that he believed contemporary society could not escape degeneracy. Indeed, Strauss's distinction between philosophers and statesmen shows that he believed civic republicanism was one of those necessary fictions that philosophers could see through—thus their esoteric philosophy—but could not expose to public view—thus their exoteric philosophy.

Finally, I have suggested that Strauss gives a right-wing flip to certain positions that have also attracted the left. As summarized by Drury, Strauss's critique of modernity sounds a lot like what Horkheimer and Adorno had to say about "the dialectic of enlightenment." Indeed, the similarities in this instance extend below the surface, because Horkheimer and Adorno were at least as pessimistic about the prospects for modern society as was Strauss, although on Drury's presentation it seems that Strauss accepts modern degeneracy with a stoic resignation, whereas Horkheimer and Adorno were enraged by degeneracy even though they saw no way to reconstitute a good society.

All this adds up to the suggestion that Strauss probably does have some interesting things to say, which explains Drury's conclusion that his work is "fascinating." On the other hand, the interesting things seem to be embedded in a fog of words that, I suspect, is not worth the effort to penetrate. For students of constitutional law, perhaps the message of Straussian political theory is that they should read their texts very closely, paying particular attention to the genre and intended audience of the texts. Those of us who have spent a month or more of class time on *Marbury v. Madison* (or, in my classes, on *The Federalist Papers*) are unlikely to regard this as hot news.

**MORALITY, POLITICS AND LAW.** By Michael Perry.<sup>1</sup> New York: Oxford University Press. 1988. Pp. 323. \$29.95.

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If Professor Michael Perry did not exist, we would be tempted to invent him—as a paradigm of lawless jurisprudence. Professor Perry's first book, *The Constitution, the Courts, and Human Rights*, was apparently designed to liberate constitutional analysis from

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