

***The Road to Soft Caesarism:
Conserving the Liberal Society in an Age of Imperial Presidentialism***

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In their thirty year letter correspondence,¹ philosopher Eric Voegelin and classicist Leo Strauss discussed the civic conditions that lead to Julius Caesar's rise to power. Strauss termed the point of contention, "Caesarism," which is "a monarchy that follows a republic no longer able to govern itself."² The Roman republic had, like 18th century France, followed a monarchy. But it eventually gave way again to monarchy. French historian Pierre Manent observes, "The self-destruction of the republican city [of Rome] was in a certain sense the cause of the empire coming into existence."³ One finds in the figure of Julius Caesar a citizen who, while aggregating power belonging to the people and Senate, never seized the royal crown. Yet he set the precedent from which a republic metamorphosized into an empire. Analogously, the U.S. has seen over several decades Congress successively handing power to the President; concurrently, the country has seen the growth of the administrative state of executive branch agencies. Paraphrasing Strauss, I refer to this recent phenomenon as soft Caesarism: a centralized bureaucratic executive authority that aggregates power from competing state authorities and autonomous institutions of civil society as that civil society becomes less able to govern itself.

In consideration of the threats of tyranny outlined in Federalist 47, I discuss the conditions (such as the decline of autonomous institutions) facilitating the rise of soft Caesarism, and the problems facing the proper conservative response to reign in executive fiat and restore a vibrant civil society. I maintain that the definition of tyranny consists in the usurpation of powers of civil society as well as the powers of the other branches of government. As Hannah Arendt says that bureaucracy, "the most social form of government," in "certain circumstances, even

turns out to be one of its cruelest and most tyrannical versions.”⁴ But, the accumulation of other branches’ powers is getting more press lately.

Recently, President Barack Obama declared by executive order (and without the consent or support of Congress) he would and has used prosecutorial discretion to not enforce immigration laws concerning the possible deportation of five million illegal immigrants in the U.S. In response to this use (or abuse) of executive power, one *New York Times* headlines dubbed that this move was one in a series of “The Making of an Imperial Presidency.”⁵ This executive overreach is not new—liberals (like then Sen. Obama) during the George W. Bush administration complained of centralizing federal powers within the Presidency. In 2008, Gene Healy of the Cato Institute dubbed the presidentialism at work, “The Cult of the Presidency.”⁶ Expanding executive authority unbalances the harmony established in the separation of powers among the judicial, executive, and legislative branches. But President Obama’s decision has been incentivized by similar precedents. For instance, the Immigration and Nationalization Act of 1986 seated the President with vast swaths of authority to write immigration policy as he sees fit. As Yuval Levin notes, “A move like the executive action President Obama announced last night is a natural consequence of such a trend—it happened not because Congress declined to pass an unwise immigration bill but because the president could imagine that he had the authority to change the nation’s immigration policy himself.”⁷ This executive fiat was long in the making.

One may recall James Madison’s famous words on the subject: “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.”⁸ Whatever the regime’s form or number, accumulating illegitimate power is tyrannical. Hence Madison to create a self-limiting government called for separated powers to

establish our liberty under the law due to checks and balances among the powers. When Madison quotes Montesquieu (“Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator”), Madison intentionally emphasizes “the centrality of separating legislative and judicial power in preserving self-rule.”⁹ The separation of powers is hand-in-hand with the preservation of self-government at all levels of civil society and civic authority, so that citizens have self-rule in civil society and representative government.

Obviously the country is not witnessing the complete accumulation of powers within one branch (hence the use of the word “soft”). Yet given the steady accumulation of policy-crafting powers within the executive branch, alongside the growing *de facto* fourth branch of the administrative state, one asks what the necessary conditions are that sustain an environment incentivizing power accumulation such as executive overreach. Why could the President believe he has the authority to solely change U.S. immigration policy without Congress? Healey writes, “Who can we blame for the radical expansion of executive power? Look no further than you and me.”¹⁰ What common citizens have done and have failed to do is perfectly responsible for this overreach: the habits, virtues, vices, and types of associations (or lack thereof) of citizens have causal input by permitting the expansion of executive and federal power. Madison continues, “it will be proper to investigate the sense in which the preservation of liberty requires that the three great departments of power should be separate and distinct.”¹¹ In a similar spirit, I will discuss how societal preconditions permit such accumulation and what the political task is to preserve our inherited constitutional liberties.

Madison writes that the most influential person on the separation of powers is the French philosopher Montesquieu, and that central to Montesquieu’s thought is the model of government

presented by the British constitution.^A In his essay collection, *Popular Government*, Sir Henry Sumner Maine explains that “in the middle of the eighteenth century, it was quite impossible to say where the respective provinces of the French King and of the French Parliament in legislation, and still more of the same authorities in judicature, began and ended”; Montesquieu therefore found a contrast with France in “the considered yet incomplete separation of the Executive, Legislative, and Judicial powers in England.”¹² From this contrast, he made his famous argument concerning the necessity of the balance of powers. Maine’s subtitle to *Popular Government* is “An Inquiry into the conditions necessary for the success of representative government.” I mention it since the questions of the right societal preconditions for the fabric which maintains self-regulating powers of democratic representation and republican accountability are not sufficiently asked in discussions on the growth of federal powers. What is it that makes a society have such civic trust that one has a sustainable national political character? The constitution ought not to be merely a mechanism for operations between laws made, executed, and interpreted; rather it needs to be seen as more: an organic enterprise imbued with the virtue of citizens having those institutions, customs, culture, and traditions providing the moral psychology for civic virtue.

The current political crisis in the United States concerns the political problem of ever-growing unbalanced state power and the intellectual problem that our political discourse,

^A “The oracle who is always consulted and cited on this subject is the celebrated Montesquieu...The British Constitution was to Montesquieu what Homer has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal bard as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged, so this great political critic appears to have viewed the Constitution of England as the standard, or to use his own expression, as the mirror of political liberty; and to have delivered, in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure, then, not to mistake his meaning in this case, let us recur to the source from which the maxim was drawn” (www.constitution.org/fed/federa47.htm).

especially on the right, lacks the right questions being asked. Concerning the first issue of an aggregation of government power, it is important to note tyranny consists not just in one branch absorbing the powers of the other two. It consists just as well in one branch absorbing powers from levels where government authority ought to be subsidized either to the states or free association in civil society. Ramesh Ponnuru summarizes, “Instead much of government becomes a series of shakedowns, special-interest deals, and programs that continue from inertia. This type of government can weaken the economy and civil society, but it cannot reach the lofty ambitions politicians set for it. And it is a far cry from the limited, deliberative government of divided powers that the Founders envisioned.”^B The self-sufficiency of civil society has become more and more gutted due to directly unaccountable federal bureaucracies. Not just executive agencies and judicial court fiat, the problem consists in a breakdown of avenues within civil society to solve through bottom-up solutions different crises.

For example, Yuval Levin points out that maybe the most major development in recent years is what he calls “the vast decentralization of American life,” whereby while the postwar era was dominated by large institutions, e.g. big government and big media, big labor, major universities, “we are witnessing the replacement of large, centralized institutions by smaller, decentralized networks.”¹³ For example, the newspaper industry could expand itself in the 1980s,

^B Ponnuru continues on the aggregation of the administrative state: “Joint federal-state programs grow seemingly inexorably, unable to be reformed no matter how disappointing their results. The federal government inserts itself into every nook and cranny of American life, with no decision too local, or trivial, to escape its attention. Federal courts micromanage institutions—schools, prisons—and make policy judgments traditionally confined to legislatures on issue after issue. Companies face multiple and sometimes conflicting regulators in an atmosphere of pervasive uncertainty. Presidential orders revise laws without a vote of Congress. Agencies combine judicial, legislative, and executive powers while staying far removed from the control of voters.” [Ramesh Ponnuru, “Recovering the Wisdom of the Constitution,” *Room to Grow: Conservative Reforms for a Limited Government and Thriving Middle Class* (YG Network, 2014): 107-110, 107.]

like many institutions since the postwar period such as the public university, since it could then safely assume to be the main institution through which, if one wanted to be a journalist, one would have to join. Yet now faced with ever greater competition of new forms of decentralized communication (e.g. social media), the newspaper industry is learning to adapt by modernizing its methods, downsizing its bureaucracies and other employees, and finding a new market niche. Here one finds initiatives of civil society to adapt to decentralization. Yet other institutions often propped up by the state, like general education or the university system (which has only been increasing its administration bureaucracies and student tuition),¹⁴ are refusing to adapt. Given this illustration, one finds there is not just accumulation by one branch absorbing powers of other branches. Accumulation consists in a government that absorbs the powers of civil society to such an extent that it becomes near impossible for autonomous institutions to be avenues of reform.

Writer James Poulos has a very helpful phrase for this situation, the Pink Police State: as a “growing sphere of libertinistic freedoms compensates (or more than compensates!) for our shrinking spheres of political liberty and the practice of citizenship,” therefore “subjects” of a Pink Police State become “apt to surrender more and more political liberty in exchange for more and more cultural or ‘personal’ license.” All this occurs while the Pink Police State government “tends to monopolize and totalize administrative control while carving out a permissive playpen for the people.”¹⁵ In this Brave New World, individual license of a social liberal and politically correct form increases while the liberty of autonomous institutions—Burke’s little platoons—only decreases.^C Concordantly, Hannah Arendt explains the temptation that mass society on all

^C While an extreme example, Leszek Kolakowski’s description of life in Communist Poland helps illustrate the point concerning the threat of civic association breakdown: “Still, we are deprived of sovereignty...in a sadly and direct palpable sense: in that all the key sectors of our life, including the army, foreign policy, foreign trade, important industries, and ideology, are under the tight control of a foreign empire which exerts its power with

its levels “excludes the possibility of action.” Rather, society expects from every member a certain kind of behavior by “imposing innumerable and various rules” which “normalize” its members, making them behave in such a way to exclude “spontaneous action or outstanding achievement.”¹⁶ By action, Arendt means open participation in the public square in which individual action (not just social behavior conceptually rooted in psychological states) strongly effects the polis. Arendt gives the example of Greek city-states in contrast to mass society to illustrate the triumph of the social (the set behavioral space for private relations) over the public (the space that allows for spontaneous participation):

This modern equality, based on the conformism inherent in society and possible only because behavior has replaced action as the foremost mode of human relation, is in every respect different from equality in antiquity, and notably in the Greek city-states. To belong to the few “equals” (*homoioi*) meant to be permitted to live among one’s peers; but the public realm itself, the *polis*, was permeated by agonal spirit, where everybody had constantly to distinguish himself from all others, to show through unique deeds or achievements that he was the best of all (*aien aristeuein*). The public realm, in other words, was reserved for individuality; it was the only place where men could show who they really and interchangeably were. It was for the sake of this chance, and out of love for a body politic that made it possible to them all, that each was more or less willing to share in the burden of jurisdiction, defense, and administration of public affairs.¹⁷

To be an Athenian citizen, for instance, meant to be a participant in city life where the divisions between public and private, state and civil society were a matter of degrees and not kinds. There was not a fractured social life but shared social membership that made equality have the aristocratic character of individuality in pursuit of the common good and motivated by one’s love of home. However, with the rise of the Roman empire and its expansion came the inevitable absorption of all male subjects as Roman citizens. With this division—the destruction of Rome as a singular, city-state identity and metamorphosing into a corporate, Mediterranean identity—

considerable meticulousness (e.g., preventing specific books from being published or specific matters of information from being divulged, no to speak of more serious matters)” (*My Correct Views on Everything*, South Bend: St. Augustine’s Press, 2005, 12).

arose the position of the magistrate. Within western consciousness entered the person who represents the citizen, the politician, rather than the citizen self-governing when one governing one's activity (i.e. self-government) took place in governing and being governed. As Aristotle writes, "the good citizen" has dual avenues of positive freedom: "he should know how to govern like a freeman, and how to obey like a freeman- these are the virtues of a citizen."¹⁸ The role of the politician created an intermediary realm between the as well newly created realms of the public and private, and between state and civil society.¹⁹ This Roman reference gives context to the question of soft Caesarism for America today. Certainly one does not have to be worried about state-sponsored destruction of individual space. But one worries about the aggregation of institutional associations between citizens and their replacement, as the magistrate replaced the citizen, by a Pink Police State of Grand Inquisitor-like bureaucratic temperament that allows socially liberal relations while at the same time forbidding more classical civil relations independent of the state. [Also, the issue of mass society as the channel for politics raises new concern for the imperial presidency. The late Juan Linz notes that in a presidential government, the president has a "strong claim to democratic, even plebiscitarian, legitimacy."²⁰ This means that Presidentialism may dangerously become a symbol for victory of the social over the public.]

The question becomes how to respond. Individuals are not sufficient to affirm, borrowing from the tenth amendment, "The powers not delegated to the United States by the Constitution." The usual definition of totalitarianism is when all autonomous institutions have been absorbed by the state. Any buffering space between the individual and the state has collapsed. When all such connections are broken, there is no protection of citizens from one another or from the masses in a given situation. Individuals on their own would be unable to defend their liberties and would be made subject to despotism without the resistances of associations. Levin writes, "The social

institutions that stand between the individual and the government are crucial barriers to the ruthlessness of public affairs and the occasional cruelty of majorities. They are essential to liberty.”²¹ Institutions such as families, churches, markets, bowling clubs, ought to be as autonomous as possible because they “channel the implicit knowledge of many individuals and generations” that “have passed the test of time and contain in their forms more wisdom than any person could possess.”²² These institutions, containing within them the tacit social knowledge of generations who have dealt with plausibly similar problems before, provide for the dispensation of the civic knowledge needed to form a citizenry that functions as the social check upon usurpation of powers, a buffer to social planning, and energy for a well-run government. Yet while often acting in a way that prefers the path of implicit knowledge as the way to solve social problems, the American right speaks in a way atomistic and legalistic with the individualist rhetoric of the Reagan era. This brings up the second problem: that those who would tackle the soft tyranny the right way conceptually lends their words and ideas to obfuscating solutions.

Consider the example of how individuals think of the U.S. Constitution when responding to imperial presidential actions. Any response to a violation of the separation of powers requires understanding the meaning of constitutional checks and balances. Levin notes the challenge that thinking constitutionally is difficult “in an age when constitutional thought and legal thought have been almost entirely confused for one another.” James Caesar explains the two:

The first sense—legalistic constitutionalism—understands the Constitution as a set of rules that can decide policies or cases; these rules are of a sort that can offer definitive answers and that could be employed and enforced by courts. The second sense—political constitutionalism—understands the Constitution as a document that fixes certain ends of government activity, delineates a structure and arrangement of powers, and encourages a certain tone to the operation of the institutions. By this understanding, it falls mostly to political actors making political decisions to protect and promote constitutional goals.²³

Legalistic constitutionalism consists in thinking of our government as a framework to achieve specific ends without asking why this end over that goal. On the other hand, political constitutionalism involves not merely analyzing the meaning of amendments, but seeing these as part of the larger organic unfolding of society—it involves seeing the U.S. Constitution as part of the constitution of our society. Legalistic constitutionalism sees the Constitution as a civic document, while political constitutionalism understands the document within a larger context—it is a civic document for civic direction. Yet the political right (as well as the left) may lack the conceptual resources right now to convey the message against executive usurpation of powers. Levin continues that “bringing the system back into balance will require members of Congress to see themselves as charged with doing so—and to understand the Constitution as the purview not only of lawyers and judges but also of the legislature, the executive, and the public.”²⁴

This trend is part of a larger concern about the rhetoric of the American right: it does not just maintain policies from the 1980s but also a rhetoric and philosophy foreign to conservatism at its essence—individualism that speaks nothing of the inherited social order. Given that conservatism would desire to preserve the separation of powers through proper renewal, it is optimal to explore the conceptual foundations of that system. For example, in *The Spirit of the Laws*, Montesquieu writes, “Particular intelligent beings may have laws of their own making; but they have some likewise which they never made. Before there were intelligent beings, they were possible; they had therefore possible relations, and consequently possible laws.”²⁵ The relevant point is that there are just laws “which [the present generation] never made”—just laws are an inheritance. That essential point is the conservative response to protecting the separating of powers. The political right suffers from not emphasizing enough that what we have is an inheritance which makes possible our free political existence. It often is very individualistic and

anti-government without mention of social and civil obligations and duties among individuals. While American conservatives reject the belief that once we throw off the chains of the traditional social order, we become our true selves—they have a sneaking adherence to it. American conservatives “are heirs to the pioneer culture,” they “idolize the solitary entrepreneur, who takes the burden of his projects on his own shoulders and makes space for the rest of us as we timidly advance in his wake,” and how this figure, “blown up to mythic proportions in the novels of Ayn Rand, has, in less fraught varieties, a rightful place in the American story.”²⁶ Often one may assume that only by removing the shackles of government we become free. That assumption is a mistake—as Tocqueville says, “The advantages of liberty become visible only in the long term and it is always easy to mistake the cause which brought them about.”²⁷

Consider the example of the Arab Spring’s throwing off the chains of tyrannical dictatorships and instituting representative democracy hailed in the west as the primary solution to social incohesion and violence. The Muslim Brotherhood momentarily took power, the leaders of the Libyan government have to meet on a boat at sea, and many young men from these countries have joined ISIS. In the case of Egypt, Roger Scruton writes, “an electoral victory” represents “the opportunity to crush dissent and impose a way of life that for many citizens is simply unacceptable. In such circumstances democracy is a threat to human rights and not a way of protecting them.”²⁸ These examples show working democracies do not occur in a vacuum—they have cultural preconditions. The Middle Eastern countries base citizenship on adherence to a creed. In contrast the de facto Kurdistan may be the only country in the Middle East since “Being a Kurd is a matter of language, history and an ancestral claim to territory.”²⁹

Even the internationalist Jürgen Habermas admits that the politic virtues essential to democracy arise only in certain circumstances. Civic virtues are fruits “of a socialization” with

“the practices and modes of thought of a free political culture.” This primary status of the person as citizen is “embedded in a civil society that is nourished by the springs that well forth spontaneously—springs that one may term “pre-political.””³⁰ While Rousseau says man is born free prior to social life in our natural state and everywhere is in chains since the social sphere dilutes our freedom, it could not be further from the truth. As Scruton writes,

We are not, in the state of nature, free; still less are we individuals, endowed with rights and duties, and able to take charge of our lives. We are free by nature because we can become free, in the course of our development. And this development depends at every point upon the networks and relations that bind us to the larger social world. Only certain kinds of social networks encourage people to see themselves as individuals, shielded by their rights and bound together by their duties. Only in certain conditions are people united in society not by organic necessity but by free consent.³¹

Basically, the idea of the individual is a social construct since its necessary preconditions are built into the implicit knowledge of the social order we have inherited. The emphasis for conservatives should not be to remain silent on this fact since silence gives consent by omission to the Rousseau doctrine. Rather, the duty is to emphasize the inherited good things of our social order and the knowledge within it which motivates us to transform arguments over constitutional powers from a spirit of legalistic constitutionalism to political constitutionalism.

The current rhetoric for preserving civic operations like separation and balance of powers can make the prescribed alternative vision seem atomistic, whether on the left or right. That can cause cynicism. As Manent writes, “If the separation and balance of powers do not lead to immobility [of the political actors], it is not because of the necessary motion of things but because power—the State as the aggregate of powers—is separated from society. The sovereign State is sufficiently stable, fixed, and elevated above society to be able to let its members of society be free—laissez-faire, laissez-passer.”³² Political actors are immobile as the Greek city-state citizen became immobile in the public space with the introduction of the magistrate. Thus

the aeropractica became the social space due to the rise of material and legal equality. Arendt writes the rise of mass society indicates “the realm of the social has finally, after several centuries of development, reached the point where it embraces and controls all members of a given community equally and with equal strength.” This triumph of equality as a value in modernity means “that society has conquered the public realm, and that distinction and difference have become private matters of the individual.”³³ Distinction and difference are demarcated to the private matters of the individual, while with Soft Caesarism they are traded for “cultural or ‘personal’ license.”

Interestingly, Caesarism and soft Caesarism each take place in a nation-state whose beginnings are an achievement of a new level of equality and freedom for the individuals who took refuge there.^D When speaking to the English Parliament in 1776, Edmund Burke said that “a love of freedom is the predominating feature which marks and distinguishes the whole”³⁴ of the thirteen colonies. Also, Alexis De Tocqueville writes in *Democracy in America* of the paramount importance of equality among Americans. He at once praises and warns of the dangers of equality, as he does with all facets of democracy, since the “first and liveliest of the passions inspired by equality” is “the love of equality itself.”³⁵ Considering the tension between freedom and equality, Tocqueville imagines “an extreme point at which freedom and equality meet and blend together” which is a prevention of tyranny since “with no man different from his fellows,

^D Livy explains the founding of Rome: “It had been the ancient policy of the founders of cities to get together a multitude of people of obscure and low origin and then to spread the fiction that they were the children of the soil. In accordance with this policy, Romulus opened a place of refuge on the spot where, as you go down from the Capitol, you find an enclosed space between two groves. A promiscuous crowd of freemen and slaves, eager for change, fled thither from the neighbouring states. This was the first accession of strength to the nascent greatness of the city.” [Titus Livius, *The History of Rome Vol. 1*, Book I, Section 8, trans. Rev. Canon Roberts, ed. Ernest Rhys, London: J. M. Dent & Sons, Ltd., 1905, mcadams.posc.mu.edu/txt/ah/Livy/Livy01.html.]

nobody will be able to wield tyrannical power; men will be completely free because they will be entirely equal; they will all be completely equal because they will be entirely free. Democratic nations aim for this ideal.”³⁶ Yet this idealized extreme is the tyranny of equality itself. This equality of levelled individual difference is one type of equality in which freedom is only negative, assuming there is any freedom. Somewhat resonant to Arendt’s description of the triumph of mass society over the public realm, the danger arises that equality, like freedom, as an abstract idea implemented without context obliterates the possibility for difference within the civic realm when the conception of freedom has not positive aspect to it of what we are free for.

Tocqueville speaks of another type of equality^E that exists with difference, one in which all men (and women) have the right to enjoy the same benefits of social membership without all being in government—analogue to how some heroes prove themselves to the city over others. This equality of opportunity, what one might call a moral equality, allows for something parallel to an aristocracy. Tocqueville notes much of what is American originates in aristocratic Britain (similar to how Montesquieu looked to the British constitution). He is specific to mention that much of American “democratic mores and institutions” are “aristocratic in origin or character.” Tocqueville lists religion, the jury, and American devotion to self-government, free speech, and free press. These institutions and mores “come from aristocratic England.”³⁷ Harvey Mansfield summarizes Tocqueville’s analysis of the Aristocratic character in American democracy:

Not having endured a democratic revolution, Americans have less individualism than democratic peoples in Europe; in Tocqueville’s phrase, they had the great advantage “to be born equal instead of becoming so.” Since they are aware of their individualism, they

^E “Equality can take root in civil society without having any sway in the world of politics. A man may have the right to enjoy the same pleasures, enter the same professions, meet in the same places; in a word, to live in the same way and to seek wealth by the same means, without all men taking the same part in the government.” (Tocqueville, *Democracy in America*, 584).

“combat” it with free associations. ... Associations draw men from the private ease of individualism into public activity, engaging their self-interest and their ambition while promoting the common good.³⁸

We can form associations freely since we inherit the necessary mores from associations having the implicit knowledge that makes us free. These associations are exercises of self-government and political virtue. They break the mass societal chasms among the social, public, and private. While people may live materially unequal, their free associations within society make possible a concrete moral equality consistent with liberty and Tocqueville’s description of American-made cures to isolated individualism. Commenting on Burke,^F Levin writes this mode of politics “will tend to elevate the low and bring the high into submission without actually eradicating all social distinctions or atomizing society into mere desperate individuals. It composes a whole of which all are equally parts, if not equal parts.”³⁹ This moral equality is a freedom to participate in social membership and the public space sustained by good government. It is analogous to the Greek balance between a citizen being among one’s “equals” (*homoioi*) by trying to be “the best of all” (*aien aristeuein*). This moral equality of free institutions exercises the powers of civil society and sustains a society’s vitality and implicit knowledge—both of which must be called upon to reign in the two-fold accumulation of powers by the executive branch.

However, America faces a crisis of the erosion of our free institutions. The “American way of life,” a common phrase to use in 1960, refers to a shared civic culture that every single economic class could, provided they were not barred legally, embrace. This American civic culture encompassed, sociologist Charles Murray writes, “shared experiences of daily life and

^F Burke writes, “The inequality which grows out of the nature of things by time, custom, succession, accumulation, permutation, and improvement of property, is much nearer that true equality, which is the foundation of equity and just policy, than any thing which can be contrived by the tricks and devices of human skill... It was this which without confounding ranks had produced a noble equality, and handed it down through all the graduations of social life.” (Quoted in Levin, *The Great Debate*, 87).

shared assumptions about central American values involving marriage, honesty, hard work and religiosity.”⁴⁰ Now we face a “problem of cultural inequality.”⁴¹ Murray continues,

Over the past 50 years, that common civic culture has unraveled. We have developed a new upper class with advanced educations, often obtained at elite schools, sharing tastes and preferences that set them apart from mainstream America. At the same time, we have developed a new lower class, characterized not by poverty but by withdrawal from America's core cultural institutions.⁴²

The problem arises then whether a separation of classes from associations, in which one sector of society maintains the benefits of social membership, is constitutionally right in the sense that this new divide accords with the organic character of America. The truth is that we are mutually dependent, and we “need to do what we can to spread the benefits of social membership to those whose own efforts do not suffice to obtain them. *How* this is to be done is an intricate political question.”⁴³ The answer is certainly not encouraging top-down approaches or presidential accumulations of power and exercises of congressional authority. The response, along with the necessary legal efforts to restrain presidential power, should be to create a space as large as possible for autonomous institutions to renew civic culture and greater cultural equality consistent with American liberty. The fact is that renewing a moral equality of civic culture is necessary for any long-term response to the current anti-federalism of the executive branch.

Given the current state of affairs enumerated above, it seems the proper political task will be a long way to travel. Levin notes, “A liberal society depends on the long way of moral formation, yet it does not understand itself as engaged in such formation.”⁴⁴ Politics often takes the form of neutrality when it could be concerned with the flourishing of its citizenry. Sustaining and enlarging that space between the individual and the state, along with a bottom-up cultural reformation, are needed against soft Caesarism. While we are not Rome right now, nor probably on the road to Caesarist Rome, we may be on a road leading to a soft Caesarism of centralized

accumulation of powers from other branches of government and civil society. The result would further fracture the private space from the desirably free public space, and thereby erode the cultural capital necessary for long term political constitutionalism. Conserving the organic core of American liberal society takes a bottom-up moral reformation that is just as necessary as legal action to rebut a presidential accumulation of powers. That response means first recognizing the usurpation of the powers of civil society by the welfare/administrative state “may justly be pronounced the very definition of tyranny” as much as the fiat orders of an imperial presidency.

¹ *Faith and Political Philosophy: The Correspondence between Leo Strauss and Eric Voegelin: 1934-1964*, trans. and eds. Peter Emberley and Barry Cooper (Columbia: University of Missouri Press, 2004).

² Pierre Manent, *The Metamorphosis of the City: On the Western Dynamic* (London: Harvard University Press, 2013), 114.

³ Pierre Manent, *The Metamorphosis of the City*, 114.

⁴ Hannah Arendt, “The Public and Private Realm,” in *The Human Condition*, 2nd edition (Chicago: The University of Chicago Press, 1958, 1998): 22-78, 40.

⁵ Ross Douthat, “The Making of an Imperial Presidency,” *The New York Times Sunday Review*, 23 November 2014, www.nytimes.com/2014/11/23/opinion/sunday/ross-douthat-the-making-of-an-imperial-president.html.

⁶ Gene Healy, “The Cult of the Presidency,” *Reason*, June 2008.

⁷ Yuval Levin, “How Our Democracy Works,” *National Review Online*, 21 November 2014, www.nationalreview.com/corner/393244/how-our-democracy-works-yuval-levin.

⁸ James Madison, “The Federalist No. 47: The Particular Structure of the New Government and the Distribution of Power Among Its Different Parts,” 1788, www.constitution.org/fed/federa47.htm.

⁹ William J. Haun, “Common Law and Constitutional Law: A Response,” *First Things*, 5 December 2012, www.firstthings.com/blogs/firstthoughts/2012/12/common-law-and-constitutional-law-a-response.

¹⁰ Gene Healy, *ibid*, reason.com/archives/2008/05/12/the-cult-of-the-presidency.

¹¹ James Madison, “The Federalist No. 47,” *ibid*.

¹² Sir Henry Sumner Maine, *Popular Government* (1885), with an intro. By George W. Carey (Indianapolis, Indiana: Liberty Classics, 1976), 219.

¹³ Yuval Levin, “Blinded by Nostalgia,” *First Things*, October 2014, www.firstthings.com/web-exclusives/2014/10/blinded-by-nostalgia.

¹⁴ See Jon Marcus, "New Analysis Shows Problematic Boom In Higher Ed Administrators," *New England Center for Investigative Reporting*, 6 February 2014, necir.org/2014/02/06/new-analysis-shows-problematic-boom-in-higher-ed-administrators/.

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