Max Weber was born in 1864 and died in 1920, at age 56. In little more than 30 years, the lawyer turned social scientist and humanist produced a gigantic scholarly oeuvre that, in the words of Edward Shils, “touched on the deepest elements of the existence of human societies.”

Weber also was an extraordinarily engaged citizen and public intellectual who, in letters, lectures, and newspaper articles, contributed to the elucidation of contemporary issues. His views can be controversial, even grating. His political world is not our world and, in any event, the world we inhabit has greatly changed from his. Nevertheless, his ideas have continuing utility, as we think about our own historical situation.
In a “long and revealing” political essay that Weber wrote in 1917 and about which he said that it could not claim “the protective authority of any science” because it dealt with “ultimate commitments,” Weber made use of the concept “caesarism” to characterize the chancellorship of Otto von Bismarck after the founding of the German Empire in 1871. It is this 1917 essay, soberly entitled “Parliament and Government in a Reconstructed Germany,” that has led me to my subject.

Why my choice of “caesarism” as a topic? The concept was of importance to Weber and, in reading Weber, one cannot help but be struck by the relevance, to our own historical situation, of his reflections on leadership in mass democracies. His views were complex, had both descriptive and prescriptive elements, and, in part, relied on one of Weber’s most significant contributions to political sociology, the concept of charisma. His arguments about what, nowadays, we would call “governance” are anything but theoretical as we encounter caesarist tendencies and claims in contemporary presidential politics. Weber’s use of the concept provides fresh, primarily sociological perspectives that go beyond the connotations of the contemporary term “imperial presidency” though, of course, there is much overlap. As we shall see, Weber’s emphasis was on the plebiscitarian aspects of caesarism. His motto might have been three words from Suetonius about the historical Caesar: “Conciliato populi favore . . .” (“Having won the favor of the masses . . .”).

Weber’s 1917 essay first appeared as a series of articles for the Frankfurter Zeitung earlier that year. Its reissue Weber prefaced with remarks about himself: “The author who voted Conservative almost three decades ago and last voted Democratic ... is neither an active politician nor will he be one. For caution’s sake it may be added that he does not have connections of any kind to any German statesman.”

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3 I first encountered the essay in Anthony Kronman’s book on Max Weber: Kronman 175.
4 Weber 1968, 1381.
5 The by now classic treatment of Weber and politics is that by Wolfgang Mommsen, first published in German in 1959 and then, in 1984, in English. I owe much to Mommsen’s book; see Mommsen 1984.
6 See Schlesinger.
7 Suetonius 14. For a recent biography of Caesar, see Goldsworthy.
8 Weber 1968, 1384.
What Weber did have were strong political views about the statesmen, political machinery, and constitutional setup of the Wilhelmine empire as it had emerged from the unification of Germany in 1871. They focused on Bismarck, the spiritus rector and first chancellor of the Reich who had been dismissed by Emperor Wilhelm II in 1890 after the latter had ascended to the throne and wanted a personal role in determining the policies, especially foreign policies, of the Reich. In his essay Weber concentrated on what he called Bismarck’s “caesarism,” on Wilhelm’s II “personal” rule, on the rule of the bureaucracy, and on the role of parliament.

Caesarism is hardly a self-defining term. In the 19th century, first in France, the neologism became a shorthand for the new plebiscitarian mass politics, as exemplified by Napoleon III. Theodor Mommsen, the great historian of Rome, found himself forced to distinguish between “the unsurpassed greatness of the master-worker” (i.e., Julius Caesar) and its caricature (“caesarism”) in the Bonapartism of Napoleon III.

The concept was employed fairly widely in the 19th and early 20th century. One of its best known invocations is, of course, by Oswald Spengler in *The Decline of the West*, a book that first came out in 1918, i.e., more or less contemporaneously with Weber’s essay. In a world history table on “political epochs” that accompanied *The Decline of the West*, Spengler identified the period from 1800 to 2000 as the period where, in the West, economic power permeates the political forms of “democracy” (a word he placed in quotes) to be followed in the years 2000 to 2100 by the formation of caesarism. The caesarism that Spengler predicted for the 21st century he described, *inter alia*, as “Increasing Primitiveness of Political Forms. Inward decline of the nations into a formless population, and constitution thereof as an Imperium of gradually-increasing crudity of despotism.” Since the 21st century is only in its very beginnings, we happily may forego assessing the accuracy of Spengler’s prediction.

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9 Mosse 169.
10 Yavetz 190.
11 Groh 726.
12 Spengler, 1926, Table III; see also Spengler, 1998, 1101.
Most present-day dictionaries, too reductively, identify caesarism as imperialism, dictatorship, absolutism, or one-man rule. Weber himself did not give a tight definition. What he meant by Bismarck’s caesarism has to be mostly gathered from the attributes Weber employed.

The first section of the 1917 essay is entitled “Bismarck’s legacy.” After a reference to the greatness of Bismarck’s “sophisticated and commanding intellect,” Weber emphasized that Bismarck had not tolerated any autonomous power and he underlined the chancellor’s failure to attract or suffer independent political minds, not to speak of strong political personalities. Weber stressed the chancellor’s disdain for parliament, his tendency to seek cover behind the legitimacy of the monarchy, and his preference for governing with the help of emergency legislation. Bismarck’s support of “one man, one vote” at the founding of the Reich (in contrast to the Prussian class based electoral system) Weber attributed to Bismarck’s “demagoguery” and his preference for plebiscitarian (“caesarist”) solutions.

Initially, we shall think of the following six characteristics as defining Weber’s use of caesarism: plebiscitary elections, disdain for parliament, relying on the legitimacy of the monarchy for cover, preference for governing with the help of emergency legislation, nontoleration of any autonomous power within the government, failure to attract or suffer independent political minds.

As is apparent, Weber was especially concerned about the atrophy of parliament.

“A completely powerless parliament was the purely negative result of [Bismarck’s] tremendous political prestige. … [T]his powerlessness of parliament also meant that its intellectual level was greatly depressed. … The level of parliament depends on whether it does not merely discuss great issues, but decisively influences them; in other words, its quality depends on whether what happens there matters, or whether parliament is nothing but the unwillingly tolerated rubber stamp of a ruling bureaucracy.”

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13 Weber 1968, 1392.
Weber thought that Bismarck had left behind a nation with a political education far below the level it had achieved earlier, accustomed “to the idea that the great statesman at the helm would make the necessary political decisions.”\textsuperscript{14} One of the worst legacies of Bismarck’s rule had been the fact “that he considered it necessary to seek cover for his caesarist regime behind the legitimacy of the monarch.” “His successors, who were no Caesars but sober bureaucrats, imitated him faithfully.”\textsuperscript{15} In short, Weber accused Bismarck of disguising realities with legal fictions, of using the monarchy as a cover for his power interests and of leaving behind an emasculated parliament and nation that could not deal effectively with either the Kaiser or the bureaucracy.

As far as I can tell, Weber never employed the epithets “caesar” or “caesarist” to Wilhelm II and his “personal” rule. To the extent that Weber may have thought a “sophisticated and commanding intellect” indispensable, the Kaiser simply was no caesar. Weber took an especially dim view of the emperor’s foreign policy pronouncements after the latter, in 1890, had forced Bismarck’s resignation. In the 1917 essay, Weber dealt at length and intensely with the Emperor’s aggressive statements about foreign affairs and took Bismarck’s successors and their administrations to task for their failure to curb these harmful monarchic pronouncements.\textsuperscript{16}

Weber’s most acerbic assessments of Wilhelm II, however, are found in private letters rather than in published essays. He referred to the Kaiser as a “dilettante” and a “shadow emperor.”\textsuperscript{17} In a letter to Friedrich Naumann, written at the end of 1906, Weber commented: “The amount of contempt that our nation (and this is decisive) rightfully encounters abroad (in Italy, America, everywhere!), because we put up with this regime of this man, has in itself become a factor of first-rate worldwide political importance for us. Anybody who reads the foreign press for a few months, must recognize this. We become ‘isolated,’ because this man rules us in this manner and we suffer it and make excuses for it.”\textsuperscript{18}

\textsuperscript{14} Ibid.  
\textsuperscript{15} Id. 1413.  
\textsuperscript{16} Id. 1431.  
\textsuperscript{17} Weber 1990, 693.  
\textsuperscript{18} Id. 202; for an interesting assessment of Weber’s attitudes toward the emperor, see Radkau 524.
Basically, Weber had concluded that, in the modern state, the monarch cannot be a counterforce to the pervasive power of the bureaucrats. And yet, the monarch may be tempted to govern by himself if he is confronted only by bureaucrats, “that means, if parliament is powerless,” as Weber asserted the German parliament was. “The monarch believes that he himself rules, whereas in fact behind this screen the bureaucracy enjoys the privilege of operating without controls and without being accountable to anybody. Flatterers surround the monarch with the romantic halo of power ...”  

Weber thought that the Wilhelmine Empire was characterized by the interactions of Bismarck’s caesarism, a weak parliament, a vain, dilettantish, deluded monarch, and an ultimately very powerful bureaucracy. What was missing were responsible political leaders who had been prepared for the tasks of national leadership in the course of parliamentary political struggles.

Weber’s analysis, in *Economy and Society*, of the essential characteristics of modern bureaucracy in government and business is among the best known aspects of his work. Even people who have never read a word of Weber’s associate with him the notion of rational bureaucracy and its rational organization. The ideal type comprises general rules, jurisdictional areas (i.e., functional division of labor), training in a field of specialization, formal employment, hierarchy, written procedures, efficiency.

While Weber considered this European type of bureaucracy an essential part of the modernization of the state and therefore irresistible (he predicted correctly that even the United States would eventually succumb to it), Weber, at the same time, saw bureaucracy as a great danger for political life in general, and for democracy in particular.
“In a modern state the actual ruler is necessarily and unavoidably the bureaucracy, since power is exercised neither through parliamentary speeches nor monarchical enunciations but through the routines of administration. ... It is [the civil servants] who decide on all our everyday needs and problems.”

In contemplating future forms of political organization, Weber asked how “any remnants of ‘individualist freedom’” can be saved. “After all,” he wrote, “it is a gross self-deception to believe that without the achievements of the age of the Rights of Man any one of us, including the most conservative, can go on living his life.”

How will democracy be possible? How will any powers remain that can check and effectively control the tremendous influence of bureaucracy?

For Weber, the “most important question of all,” however, was raised by the inherent limitations of bureaucracy. “The ‘directing mind’, the ‘moving spirit’—that of the entrepreneur here and of the politician there—differs in substance from the civil service mentality of the official.”

Or, as Anthony Kronman summarizes, the threat is domination by the bureaucratic spirit to the disadvantage of real leaders, leaders with political ambition and the will to power and responsibility.

Weber’s views of the powers of bureaucracies have, in many ways, been borne out. However, they are also somewhat overstated, perhaps even for his own time and his own place. Edward Shils, for instance, has argued that what Weber had to say about bureaucracy does not present an adequate account of the growth, vicissitudes, triumphs, and failures of bureaucracy. Shils saw the considerable expansion of bureaucracy since Weber’s death, the increase in its size, complexity, and the number of its tasks and the multiplicity of the interconnections of those tasks, as frequently standing in the way of bureaucracy acting successfully.

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22 Id. 1393.
23 Id. 1403.
24 Ibid.
25 Kronman 176.
26 Shils 244.
Be this at it may, as the Wilhelmine Empire crumbled and the constitutional monarchy that Weber had originally favored was not any longer feasible, he became preoccupied with the issue of leadership in “mass democracies.” Paradoxically, as Wolfgang Mommsen has pointed out, after 1917, Weber preached what he had condemned in Bismarck: rule by a responsible politician on a Caesarist-plebiscitary basis.\textsuperscript{27} He concluded that the only way to establish a counterweight to bureaucracies and organized political interests was rule by a charismatic-plebiscitary politician.\textsuperscript{28}

“Charisma,” about which Weber had said that the term “must be used in a completely value-free sense”\textsuperscript{29}, turned out to be highly valued by Weber\textsuperscript{30} after he had, as it were, secularized the concept by freeing it from the originally religious context in which charisma signified personal authority based on actual revelation or grace. The Weberian employment refers to domination by a concrete individual who enjoys the trust of the masses. For Weber, charisma was as little alien to modern democratic suffrage as it had been to the domination of the \textit{demagogos} in Periclean democracy.\textsuperscript{31} “Active mass democratization” means that the political leader must gain the trust and faith of the masses by means of demagogy. Every democracy, he writes, tends in the direction of the \textit{caesarist} model of selection.\textsuperscript{32}

\begin{footnotesize}
\begin{itemize}
  \item Id. 187; see also Mommsen 1963, 313.
  \item Mommsen 1984, 186.
  \item Weber 1968, 1112.
  \item See also Radkau 611.
  \item Weber 1968, 1126.
  \item Id. 1451.
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In *Economy and Society*, Weber singles the United States out as having gone “all the way.” “Acclamation by the ruled may develop into a regular electoral system, with standardized suffrage. ... It is a long way to such a system. As far as the election of the supreme ruler is concerned only the United States went all the way—and there, of course, the nominating campaign within each of the two parties is one of the most important parts of the election business.” In the 1917 essay, Weber put it even more strongly. “Every kind of direct popular election of the supreme ruler and, beyond that, every kind of political power that rests on the confidence of the masses and not of parliament ... lies on the road to these ‘pure’ forms of caesarist acclamation. In particular, this is true of the position of the President of the United States, whose superiority over parliament derives from his (formally) democratic nomination and election.”

In the fall of 1904, Weber had participated in the Congress of Arts and Science in St. Louis and had made use of this opportunity to travel around the United States for more than two months. He probably arrived in America with a general understanding of its political system though his overall views of the importance of political parties and party machines as key institutional ingredients of plebiscitary democracy were influenced by what he saw that year. While Weber placed his emphasis on party machines and the presidency, he paid scant attention to the separation of powers and, especially, the roles of Congress and the courts. A hundred years later this choice seems more perceptive than may have been justified at the time, as does his stress on the inevitability of demagoguery in elections.

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33 Id. 1127.
34 Id. 1452.
35 For an account of Weber’s American travels, see Radkau 368.
36 In addition, he had read at least the second (1890) edition of Bryce’s *The American Commonwealth*, see Weber 1990, 57; see Mommsen 1971, 376.
I am tempted to see more than a mere coincidence between Weber’s emphasis on the plebiscitary aspects of American political life and the fact that the year of Weber’s travels in the United States was an out-of-the-ordinary presidential election year (he did not return to Germany before December 1904). In June, the Republican Convention in Chicago had, by acclamation, chosen Theodore Roosevelt as the Republican candidate for president and Roosevelt was subsequently elected by a sweep of all northern states. Weber’s references to the United States read frequently like references to the issues and transformations of the Progressive era. While I am not aware of any express mention of the 1904 election, Weber does refer, in *Economy and Society*, to Roosevelt’s independent 1912 campaign (after he had failed to gain the Republican nomination) in terms of a conflict between “the charismatic hero” and the mundane power of party organization.\(^{37}\)

What the present-day “official” biography of Theodore Roosevelt, on the home page of the White House, considers significant about Roosevelt, is quite intriguing in this Weberian context.

[Theodore Roosevelt] brought new excitement and power to the Presidency, as he vigorously led Congress and the American public toward progressive reforms and a strong foreign policy. He took the view that the President as a “steward of the people” should take whatever action necessary for the public good unless expressly forbidden by law or the Constitution. “I did not usurp power,” he wrote, “but I did greatly broaden the use of executive power.”\(^{38}\)

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\(^{37}\) Weber 1968, 1130. On the early 20\(^{th}\) century debate about leadership in the United States, see Karl 23 et passim.

\(^{38}\) Theodore Roosevelt.
Concerning the respective powers of a plebsicitary leader and the legislature, Weber, in the 1917 essay, had embraced the control functions of the British parliament as a counterpart to the prime-ministerial caesarist-plebiscitary element in the British government (he saw Lloyd George as a caesarist leader). In a description that does not any longer mesh with today’s British realities, he said: “Vis-à-vis the factually caesarist representative of the masses [Parliament] safeguards in England 1) the continuity and 2) the supervision of his power position, 3) the preservation of civil rights, 4) a suitable political proving ground of the politicians wooing the confidence of the masses, and 5) the peaceful elimination of the caesarist dictator once he had lost the trust of the masses.”

When Weber’s opinion was solicited in the debates over the role and position of the German president during the formation of the Weimar constitution in 1918/19, he did not propose what he understood the American solution to be. Ultimately, Weber turned out to be more ambivalent about the extent of presidential power in the American system than his desire for a counterweight to bureaucracy and organized interests would suggest. On the one hand, he believed charismatic plebsicitary leadership was unavoidable, and, indeed desirable; on the other hand, he worried about accountability and liberty. Weber did propose the direct election of the German president to make him a “steward of the masses” (“Vertrauensmann der Massen”) who could consult the people directly, but, at the same time, Weber preferred that the government itself (chancellor and cabinet) be dependent on parliamentary confidence. The solution, nowadays called a “semi-presidential system,” was perceived to combine the best elements of the American and the French constitutions. Of course, in 1933, this particular conjunction of constitutional devices turned out to be irrelevant in the face of presidential emergency powers that led to Hitler’s appointment to the chancellorship and his subsequent seizure of power. Equally irrelevant were the removal mechanisms the Weimar constitution had envisaged for chancellor and president.

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39 See Dahrendorf 18.
40 Weber 1968, 1452 (my emphasis); see also Mommsen 1984, 420.
41 On the concept of ambivalence in politics, see Smelser 13.
42 Weber 1988, 220. The justification of the draft Weimar constitution by its most important “framer,” Hugo Preuss, has strong Weberian overtones; see Preuss 385-90; also see Anschütz 243.
The removal of a charismatic, caesarist leader who loses the confidence of the masses concerned Weber in many of his analyses of the foundations of charismatic authority. There is a fascinating passage in *Economy and Society* that concerns the instability of even religious charismatic authority.

[The charismatic hero] gains [his authority] solely by proving his powers in practice. He must work miracles, if he wants to be a prophet. He must perform heroic deeds, if he wants to be a warlord. Most of all his divine mission must prove itself by *bringing well-being* to his faithful followers; if they do not fare well, he obviously is not the god-sent master. …

This is the concrete meaning of Meng-tse’s (Mencius’) statement [concerning the power of the Chinese emperor] that the people’s voice is God’s voice (according to him the only way in which God speaks): If the people withdraw their recognition, the master becomes a mere private person—this is explicitly stated—, and if he claims to be more, a usurper deserving of punishment. ⁴³

Overall, though, Weber spent little time worrying about the precise mechanisms for eliminating bad leaders in a democracy. He clearly understood the need for such mechanisms, he vaguely invoked parliaments as agents for this purpose, but he never really focused on the practicalities. In an article from February 1919, in which he advocated the popular election of the German president as envisaged by the Weimar constitution draft, he wrote: “One take care—as to any attempt, on the part of the president, to infringe the laws or to govern autocratically—that ‘the gallows and the rope’ be always before his eyes.” ⁴⁴

⁴⁴ Weber 1988, 221.
The reference to the gallows makes a reappearance, a couple of months later, in an exchange with Erich Ludendorff, the dictatorial general largely responsible for the German conduct of World War I, in which Weber supposedly said, in response to Ludendorff’s question how he understood democracy: “In a democracy the people elect a leader in whom they have trust. The elected then says: ‘Now shut up and obey.’ The people and parties have no further right to interfere. ... Afterwards the people can judge. If the leader made mistakes, off he goes to the gallows.”45

On the one hand, these grating, indeed obnoxious remarks should probably be taken with a grain of salt. They were made during a tense exchange in which Weber sought to establish some common ground with General Ludendorff. The exchange was part of a peculiar effort on Weber’s part to persuade the general to surrender to the allies and take responsibility (“offer his head”) for the conduct of the war.46

On the other hand, it is also true that the statement concerning the democratic leader’s demand for obedience is very similar to what Weber had stated, in Economy and Society, as an empirical proposition about charismatic leaders: “[The] bearer [of charisma] seizes the task for which he is destined and demands that others obey and follow him by virtue of his mission. ... [H]e is their master as long as he ‘proves’ himself.”47 Put this together with Weber’s account of leadership in his famous 1919 lecture on Politics as a Vocation48 and you hear, as Kronman has argued, Nietzsche. “In his account of political leadership, Weber stresses the same personal qualities that Nietzsche does—courage, passion, self-discipline, a heightened sense of responsibility, a distance from oneself and the world—and emphasizes (again, as Nietzsche does) the rarity of these qualities and the anti-democratic consequences of treating their possession as a justification for the exercise of authority.”49

45 Id. 553; I am quoting the recollections of Marianne Weber about what her husband told her about his encounter with Ludendorff.
46 See Mommsen 1984, 325.
47 Weber 1968, 1112.
48 Weber 1971, 505.
49 Kronman 184-5; see also Mommsen 1984, 420, 423.
Accepting Kronman’s view, we should, nevertheless, not lose sight of the complex tangle of descriptive and prescriptive elements in Weber’s thinking about governance nor of his “ultimate commitments.” While Weber was much concerned with the need for genuine political leadership and displayed somewhat romantic elitist tendencies, his “parliamentarism” and his emphasis on accountability remain all important counterweights.  

Furthermore, Weber was a political realist and it was, in my view, his political realism, as much as Nietzsche, that led him to downplay the people’s role in governance. In a 1908 letter, he wrote: “Concepts such as ‘the will of the people’, ‘the true will of the people’ etc., for me do not exist. They are fictions.”

Anachronistically, one might characterize Weber’s views about democratic politics as “Schumpeterian.” I say “anachronistically” because, of course, Weber came first and, although Schumpeter never credited Weber, there is a serious case to be made that Schumpeter was influenced by Weber’s emphasis on the selection and elimination of leaders. Nowadays, we associate this “Weberian” position primarily with Schumpeter. I quote a characteristic passage from *Capitalism, Socialism and Democracy*:

[It should be observed that in making it the primary function of the electorate to produce a government (directly or through an intermediate body) I intended in this phrase also the function of evicting it. The one means simply the acceptance of a leader or a group of leaders, the other means simply the withdrawal of this acceptance. This takes care of an element the reader may have missed. He may have thought that the electorate controls as well as installs. But since electorates normally do not control their political leaders in any way except by refusing to reelect them or the parliamentary majorities that support them, it seems well to reduce our ideas about this control in the way indicated by our definition. Occasionally spontaneous revulsions occur which upset a government or an individual minister directly or else enforce a certain course of action.]

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50 See also Mommsen 1963, 313.
51 Weber 1990, 615.
53 Schumpeter 272.
Let me summarize so far. By 1919, Weber had developed a concept of governance in mass democracies—one might say, an “ideal type”—that consists of a complex mixture of descriptive and prescriptive notions. Here are what I consider the five most important elements of Weber’s conception.

1. Every mass democracy tends in the direction of the caesarist model of selection: the specifically caesarist technique is the plebiscite.

2. The caesar’s power derives from his charisma that responds to psychic, physical, economic, ethical, religious, or political needs and that, by its own internal logic, sets its own limits and knows no supervisory or appeals body, no technical jurisdiction.

3. The leader should have a superior intellect, rhetorical abilities, and the three qualities that Weber discusses in *Politics as a Vocation*: passion for a cause (“Leidenschaft im Sinne von Sachlichkeit”), a sense of responsibility (“Verantwortungsgefühl”), and a sense of proportion, the capacity to estimate, to judge (“Augenmaß”).

4. As a means of checks and balances, parliamentary oversight is indispensable, especially for the protection of rights.

5. Furthermore, there needs to be a peaceful mechanism for eliminating the caesarist ruler who has made mistakes.

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54 While Weber recognized ideal types in the “logical” and in the “practical” sense (i.e., model types that contain what is “essential” on the basis of value judgments), he did not want them combined; Weber 1949, 97-98.
56 Id. 1111-12.
57 Weber 1971, 545.
Was Max Weber right when he said that every mass democracy tends in the direction of the caesarist mode of selection? At one level—even before present-day modes of campaigning, before present-day modes of political fundraising, before present-day primaries, before television advertising, and before the other electronic media—Weber obviously captured a tendency. In many democracies (nowadays including those with stronger political parties than the American ones) elections, most of the time, have a personalized and plebiscitary character. They focus on choosing leaders: Bush or Kerry, Merkel or Schröder, Prodi or Berlusconi. While vague substantive policy goals also play a role, modern elections predominantly are about choosing leaders not about mostly futile attempts to aggregate voter preferences. What is remarkable about Weber is how clear-eyed his perception was even a hundred years ago, especially as concerns the United States.

What we encounter here is a “tendency” in the sense in which John Stuart Mill used the concept. Whatever the validity of Mill’s view for the natural sciences may be, in the social sciences, as Weber understood, Mill provides a useful way of describing certain phenomena. “To accommodate the expression of the law to the real phenomena, we must say, not that the object moves, but that it tends to move ... unless prevented, or except in so far as prevented, by some counteracting cause .... All laws of causation, in consequence of their liability to be counteracted, require to be stated in words affirmative of tendencies only, and not of actual results.”

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58 Arrow.
59 Mill 444-45.
In the United States, on which, in conclusion, I shall focus exclusively, Mill’s formulation is especially valuable because America’s relative political openness and its associational pluralism, much of the time, tend to bring forces into play that counteract caesarist tendencies. These forces may be political but they may also include, as Weber would have recognized, the bureaucracy. The congressional impeachment proceedings that led to Richard Nixon’s resignation provide a vivid example for political counteraction. To use Weber’s colorful metaphor, “the gallows and the rope” remained before Nixon’s eyes. If the Nixon case illustrates “situational gallows,” then Lyndon Johnson’s 1968 decision not to run for reelection represents a kind of “imagined gallows” and the constitutional term limit for presidents constitute “mandatory gallows.”

What Weber focused on in American presidential politics arguably had its beginnings with Andrew Jackson. Of course, some predicted a tendency toward caesarism at the outset, though then they called it “monarchy.” Thus, in the Constitutional Convention, Benjamin Franklin said, when speaking against an absolute negative for the executive: “The first man put at the helm will be a good one. Nobody knows what sort may come afterwards. The executive will always be increasing here, till it ends in a Monarchy.”

Robert Dahl in *How Democratic is the American Constitution?* made the point that none of the presidents before Jackson publicly challenged the standard view that the only legitimate representative of the popular will was the Congress.

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60 I am grateful to Neil Smelser for having called my attention to the importance of Mill in assessing tendencies. Concerning the bureaucracy, see Aberbach 1976. Jack Balkin reminded me of the importance the bureaucracy may have in checking a caesarist executive.
61 Madison 66.
Jackson insisted that he alone could claim to represent *all* the people. Thus Jackson began what I have called the myth of the presidential mandate: that by winning a majority of popular (and presumably electoral) votes, the president has gained a “mandate” to carry out whatever he had proposed during the campaign. Although he was bitterly attacked for his audacious assertion, which not all later presidents supported, it gained credibility from its reassertion by Lincoln, Cleveland, Theodore Roosevelt and Wilson and was finally nailed firmly in place by Franklin Roosevelt.62

In addition to alleged “mandates,” charisma has become an attribute invoked in relation to many presidents or presidential candidates. In ordinary political language, “charisma” often refers to no more than the capacity to inspire enthusiasm. However, if we widen the focus to those aspects of the Weberian concept that describe the caesarist-charismatic leader as somebody who is firmly committed to a cause, who wants to set his own limits, who does not consider himself confined by technical jurisdiction, a fair number of presidents qualify as charismatic. This is also true for George W. Bush. While his invasion and occupation of Iraq has been a misjudgment of tragic proportions, he was, at least partially, driven by convictions about rooting out “evil” and spreading freedom and democracy that he understood as causes which should not be subject to the vagaries of opinion polls.

The Bush administration has also been characterized by the caesarist belief that the president should, to the greatest possible extent, not be subject to other jurisdictions, that he needs to set his own limits. In the case of the present administration, this conviction has been justified in terms of an emergency, the “global war on terror,” which has led to claims of unreviewable powers to detain alleged noncitizen enemy combatants *ad infinitum*, to detain even citizens as enemy combatants or, immediately after September 11, to be justified in rounding up hundreds of aliens on immigration charges, holding them incommunicado, and proceeding against them in closed, essentially secret hearings. In a democracy that believes in the rule of law, it is hard not to characterize such claims as “caesarist.”63

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62 Dahl 69. For an even more recent discussion of the United States constitution as “undemocratic,” see Levinson.
63 On the invocation of presidential emergency powers more generally, see Casper 1973.
A weak Congress, mostly without an independent political will, has lent support most recently by removing habeas corpus jurisdiction with respect to alien enemy combatants and by, more generally, severely limiting federal court jurisdiction in cases involving detainees. The Supreme Court itself has, on the whole, spoken less than forcefully to these issues. More than four years have passed without the court providing clear guidance on what process is due the detainees. Not a single detainee has been released as the direct result of a court order. Congress has let more than a year go by without addressing the conflict between the National Security Agency’s presidentially authorized wiretap program and the Federal Foreign Intelligence Surveillance Act about which a Justice Department memorandum simply says that (if interpreted the way I think it must be interpreted) “FISA would impermissibly interfere with the president’s most solemn constitutional obligation—to defend the United States against foreign attack.”

Collecting, summarizing, and expanding diverse, limited, and sometimes petty constitutional authorities into undifferentiated executive powers has, for many decades now, been the technique for denying the constitutional primacy of Congress and limiting the role of the courts. Would-be caesars rule with the aid of such abstractions as the executive power, the “inherent” powers of the commander-in-chief, the war power, the foreign affairs power, the emergency power. Sweeping congressional resolutions such as the Authorization for Use of Military Force are also invoked, but only as a back-up for the fainthearted, since the alleged constitutional powers are generally considered as sufficient authority.

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64 Memorandum 2006, 35.
Who can claim to know the boundaries and the exact locus of something like the “war power” or the power claimed by McGeorge Bundy on behalf of Lyndon Johnson as “mankind’s Chief Executive for Peace?” Honing in on Bundy, the National Security Strategy of 2002 declared that it must be our goal “to provide the President with a wider range of military options to discourage aggression or any form of coercion against the United States, our allies and our friends.” The war in Iraq was structured as one of those presidential military options, including a congressional Authorization for Use of Military Force that had become stale by the time the war was begun. Unilateralism can be both an international and a domestic phenomenon. In the 2002 National Security Strategy, Congress was mentioned once in 34 pages of text and then only in connection with trade promotion authority.

The president views himself as “the decider” not only within the executive branch (an awesome power to begin with), but generally in determining what is good for the country. The present Bush administration has made executive power claims more systematically, I believe, than any postwar administration, including those of presidents Johnson and, perhaps even, Nixon. Nevertheless, its claims are no more than the crystallization of a long-term, if intermittent tendency that Weber discerned as early as at the beginning of the 20th century. A depressing aspect of the present-day arguments over the scope of executive power is the fact that we had the same debate about thirty years ago and all sides to the present reiteration are doing little else than reinventing the wheel. And when we had the debate 30 years ago, it was not for the first time either.

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67 Quoted in Casper 1976, 477.
68 National Strategy, 30.
70 More generally, see Schlesinger 2004.
There is one new twist, however. Apart from speeches, government memoranda, and government briefs, the Bush administration lawyers have put forward their views on the matter most clearly in presidential signing statements that have raised hundreds of constitutional objections to various statutory provisions. The objections are couched in constitutional terms and thus raise the question of the president’s authority to disregard laws that he deems to be unconstitutional. In our context, my concern is exclusively with the language that is employed to signal and justify possible noncompliance with unvetoed acts of Congress.

The first point to note is that the signing statements tend to consist of circumlocutions. They ordinarily do not say that the president will not comply with particular provisions of an act, but that the executive branch will construe provisions in a manner consistent with the President’s constitutional authorities. For instance, concerning a statutory title creating an Inspector General for the Coalition Provisional Authority in Iraq, the signing statement said that the title “shall be construed in a manner consistent with the President’s constitutional authorities to conduct the Nation’s foreign affairs, to supervise the unitary executive branch, and as Commander in Chief of the Armed Forces.” It then specifically lists certain investigations the inspector general “shall refrain from” undertaking and continues by stating that provisions of the act requiring disclosure of information shall be construed “in a manner consistent with the President’s constitutional authority to withhold information that could impair foreign relations, national security, the deliberative process of the Executive, or the performance of the Executive’s constitutional duties.” It is hard to conceive of anything more sweeping or, for that matter, vaguer.

The formulation “unitary executive branch” is used with great frequency to ward off congressional intrusions but also, I suppose, to dispose of longstanding constitutional disputes about congressional power under the “necessary and proper clause.” The clause provides that Congress shall have power to make all laws “necessary and proper” for carrying into execution all powers vested by the Constitution in the government or in any department or officer thereof.

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71 Cooper 2005.
72 Statement.
73 Cooper 531.
74 Art. I Sect. 8; my emphasis.
At times, the signing statements create Orwellian specters. For instance, the Detainee Treatment Act of 2005 that prohibits “cruel, inhuman, or degrading treatment or punishment” brought forth the following signing statement: “The executive branch shall construe Title X ..., relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power, which will assist in achieving the shared objective of the Congress and the President, evidenced in Title X, of protecting the American people from further terrorist attacks.” This newspeak has been widely interpreted as implying that the president reserves the right to act contrary to the letter and the spirit of the legislation. Torture is the elephant in the room.

The most famous formulation that justifies concerns about the meaning of a signing statement like the one just quoted is, of course, President Nixon’s response to a question by David Frost in a television interview that took place after Nixon had resigned.76

Frost: So what ... you’re saying is that there are certain situations, where the president can decide that it’s in the best interest of the nation or something, and do something illegal.

Nixon: Well, when the president does it that means that it is not illegal.

Frost: By definition.

Nixon: Exactly. Exactly. If the president, for example, approves something because of the national security, or in this case because of a threat to internal peace and order of significant magnitude, then the president’s decision in that instance is one that enables those who carry it out, to carry it out without violating the law....

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75 President’s Statement.
76 Nixon’s Views.
Weber thought that legislatures are essential for purposes of accountability and for the protection of rights. However, Congress—with its uninterrupted electioneering and the resulting dominance of opinion surveys,\(^7\) with its disregard for the rights of legislative minorities, with its politicized ways of oversight, with its rush to judgment on matters small and large (including war), with its disregard for “germaneness” in legislating, with its dependence on money-raising machines, lobbyists, and earmarks—can hardly be viewed with much confidence or optimism.\(^7\) The role Congress plays in relation to the executive reminds one of Weber’s characterization of Bismarck’s caesarism as both the result and the cause of parliamentary weakness. It also reminds us of Weber’s emphasis on the quality of legislative bodies: “The level of parliament depends on whether it does not merely discuss great issues, but decisively influences them; in other words, its quality depends on whether what happens there matters.”\(^9\)

There is, I believe another parallel to Weber’s world. Weber said that Bismarck sought cover for his caesarist regime behind the legitimacy of the monarch. In the United States, plebiscitary caesarism is pushed by elevating discrete executive authorities to ever higher constitutional levels, seeking cover behind the legitimacy of the constitution.\(^8\)

In my view, Weber’s “caesarism” provides a conceptual focus for analyzing tendencies toward evermore accretion of executive power and the personalization of politics. Weber also reminds us of two important points.

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\(^7\) See Zakaria 166-67.
\(^8\) Cf. Ornstein and Mann 67.
\(^9\) Weber 1968, 1392.
\(^8\) By contrast, there is something to be said for the conclusion that Richard Posner articulates in his new, rather refreshingly argued book *Not a Suicide Pact*. Posner believes we would be better off not to legalize (“sugar over with legalism” is his formulation) a president’s power, rather than “authority,” not to obey the law. (Posner 158) Or, as Jefferson once put it, “Our peculiar security is in possession of a written Constitution. Let us not make it a blank paper by construction.” (Quoted in Casper 1997, 128 where I also discuss Jefferson’s views about acting without authority in some detail.)
In a democracy, the choice of leaders deserves even more attention than it presently receives. As difficult as it may appear, their passions, their judgment, their sense of responsibility, their respect for the rule of law have to be probed with an eye toward how they might deal not only with the ordinary but also with the unexpected. Of exceptional importance is a leader’s ability to do what, according to Weber, Bismarck and the Kaiser were incapable of doing: attract independent political minds. I do indeed believe that one of the worst aspects of American politics has been the gradual emergence of the White House as a “court.”

Since judges play at best a secondary or even tertiary role, much more attention needs to be paid to what Congress does and does not do. As hopeless as the cause may seem at times, putting the congressional house in order is about as important a constitutional task as anything else the country faces.

Weber began his 1917 essay by saying that it could not claim the protective authority of any science because it dealt with ultimate commitments. Later in the essay, Weber referred to the “proud traditions” of peoples who are politically mature and keep their nerves and a cool head. Keeping our nerves and a cool head as a people would be one good ultimate commitment to make in deeply troubled times.

An editorial in the Wall Street Journal recently stated that “there is no bigger campaign issue than the proper role of the presidency”. Rather amazingly, its author seemed to be worried about the erosion of presidential authority. It would be most welcome, indeed, if the proper role of the president were to become an issue in presidential campaigns. Alas, I am not holding my breath.

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81 Weber 1968, 1461.
82 Henninger.
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