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St. John's Law Review

Volume 32
Number 2 *Volume 32, May 1958, Number 2*

Article 26

May 2013

The Coming Caesars (Book Review)

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Recommended Citation

Zinn, Charles J. (1958) "The Coming Caesars (Book Review)," *St. John's Law Review*: Vol. 32 : No. 2 , Article 26.
Available at: https://scholarship.law.stjohns.edu/lawreview/vol32/iss2/26

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BOOK REVIEWS

THE COMING CAESARS. By Amaury de Riencourt. New York: Coward-McCann, Inc., 1957. Pp. 384. $6.00.

A controversial but challenging book with whose title and thesis one may disagree but whose arguments cannot be ignored by intelligent and thoughtful Americans is *The Coming Caesars* by Amaury de Riencourt. It was published in June 1957 and was brought to national prominence when the U.S. News and World Report devoted ten pages of its October 25, 1957, issue to extensive excerpts (aggregating about thirty pages of the book) without, however, attempting any critical judgment of its literary, historical, or political worth.

The author is a native of Orleans, France, and was educated in Switzerland, France, where he received his liberal arts degree from the Sorbonne, and in North Africa, where he received his master's degree from the University of Algiers. After service in the French Navy during World War II he travelled extensively and has lived for ten years in the United States. It seems to this reviewer that his origin and his European education are significant factors in the shaping of the philosophy the author expresses in this book—but that is not intended to imply that it is a matter of petty emotional anti-American prejudice. As far as is ascertainable, and this seems to be borne out by the book, the author is an Americophile, if one may be permitted to coin a word that unfortunately describes too few persons in the world today. This book is the first volume in a comprehensive philosophy of history which will include a study of other societies.

The book is divided into four parts:

I. Europe: The New Greece.

II. America: The New Rome.

III. The Decline of Europe.

IV. The Rise of America.

With the outlining of his thesis, and the defining of some of his terms, the significance of the division of the book into those four parts becomes apparent.

The author believes that the United States is threatened with the advent of Caesarism on a scale unknown since the Roman Empire.

By Caesarism he does not mean a dictatorship as the result of one man's overriding ambition, nor a brutal seizure of power by revolution, but rather a slow unconscious evolution that ends in a voluntary surrender of a free people to one autocratic master—a historical development. He draws a parallel between Greece and Rome on the one hand, and Europe and America on the other, with Greece and Europe representing Culture while Rome and America represent Civilization. In his philosophy of history, Culture is the creation of new values, emphasizing the individual rather than society, while Civilization, basically uncreative itself, is the crystallization on a gigantic scale of the preceding Culture's ideas, inevitably ending in a universal state under a Caesarian ruler. The four parts of the book are the logical and orderly exposition of this theme.

The author disclaims membership in the determinist school of the philosophy of history when he says in his introduction that, while the growth and civilized greatness of Rome and America are no more accidental than the cultural endowments of Greece and Europe, and the seeds of the oncoming Civilization were allocated centuries before by an inescapable destiny, nevertheless, the way nations handle those crushing responsibilities is not predetermined. So far, he says, all Civilizations have chosen the easy solution of Caesarism, but man's historical knowledge makes it possible for the first time to avoid those deadly shoals on which every other Civilization has destroyed itself.[1] It seems, however, that his disclaimer is only the rendering of lip-service to freedom of will, and he neither sees nor offers any means of escape from what he regards as our predestination in political matters. He would change the aphorism, "History repeats itself," to "History must repeat itself—there is no choice"; and he speaks about America forging her destiny "irrevocably" at the beginning of the eighteenth century.[2]

The author's philosophy of history is nothing new. Although he refrains from quoting Oswald Spengler, the German, who in the *Decline of the West* proclaimed that "the Caesarism that is to succeed approaches with quiet, firm step," [3] it is the Spenglerian recourse to the historical record upon which the author's conclusions are based. Spengler defined Caesarism as the ". . . kind of government which, irrespective of any constitutional formulation that it may have, is in its inward self a return to thorough formlessness." [4] The author also fails to quote other writers of that school, such as Arnold Toynbee, who followed Spengler in this interpretation of history and man's destiny.

In his primary distinction between Culture and Civilization he reasserts another notion from Spengler who used those terms in a

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[1] P. 12.
[2] P. 102.
[3] 2 SPENGLER, THE DECLINE OF THE WEST 507 (1950).
[4] *Id.* at 431.

periodic sense to express a strict and necessary organic succession. He sees a bad omen in the statement of John Adams that

> my sons ought to study mathematics and philosophy, and geography, natural history and naval architecture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry and porcelain.[5]

This, he calls ". . . the stark expression of an instinctive preference for Civilization over Culture," [6] and backs it up with a statement from Benjamin Franklin who "proudly" claimed that in America ". . . very few are rich enough . . . to pay the high prices given in Europe for Paintings, Statues, Architecture, and other works of Art, that are more curious than useful." [7] Does it not seem, rather, that both these Americans were simply stating the fact that the early days of this nation were times of privation when all efforts had to be directed temporarily toward material achievement. Adams' expressed hopes for his grandchildren clearly indicate a predilection for culture.

Aside from his basic determinist philosophy of history, there are several other factors that derogate from his thesis. First, throughout the book there are innumerable comparisons of the American system and events with the Roman system and events. Similar comparisons undoubtedly could be made between American and European developments. In comparing Rome to America he disregards the disparity of backgrounds between the Greeks and the Romans as well as the fact that American civilization had its roots in Europe. As de Tocqueville states:

> If we carefully examine the social and political state of America, after having studied its history, we shall remain perfectly convinced that not an opinion, not a custom, not a law, I may even say not an event is upon record which the origin of that people will not explain.[8]

Rome and Greece lacked the common heritage that is shared by America and Europe. Secondly, and this may very well be a corollary to the first, he fails to accord to Americans a character and an intelligence that would compel them to rise to the occasion and prevent the rule of a Caesar here, even if everyone forgot about the Constitution. His understanding and interpretation of the Constitution are not the author's strongest points although he displays a wide range of information with respect to its origin and development.

On almost every page there is a provocative statement. In expanding his notion of Caesarism the author says:

> The legitimacy of all institutions rests on one factor: time. Those that endure over a long period of time are legitimate. This is the cardinal difference between Caesarism and tyrannies or dictatorships. Legitimacy involves

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[5] P. 102.
[6] P. 103.
[7] *Ibid.*
[8] TOCQUEVILLE, DEMOCRACY IN AMERICA 30 (Galaxy ed. 1947).

a slow build-up over a period of generations, not a sudden seizure of power. Aristotle had already observed, from Greek experience, that tyrannies are short-lived. Not so Caesarism, which is a slow, organic growth within a society tending toward democratic equality.[9]

Here is an expression of positivism that ignores standards and norms of legitimacy, such as moral and psychological consent, and is a major defect in the author's thesis. The American abhorrence of political injustice that made us willing to enter two world wars would enjoin our moral and psychological consent to Caesarism here. By the author's standard—or lack of one—the Communist dictatorship will become legitimate if it lasts long enough through enforced consent!

When the author states that the ". . . cardinal feature of the [American] Constitution was the creation of an autonomous Executive and the cardinal principle was the separation of powers," [10] he would overemphasize the *feature* and deprecate the *principle;* and to refer to the Executive as "autonomous" is to ignore completely the functions of the other two branches.

His comparison of the American President to the Roman tribune is hardly worthy of an author of his calibre, when he says:

America was enjoined to separate as rigidly as possible the executive, legislative and judiciary powers. The same fear of tyranny had induced Rome to choose a similar course. Referring to the Roman creation of the Tribunate, Mommsen wrote: "Thus in this remarkable institution absolute prohibition was in the most stern and abrupt fashion opposed to absolute command," a fitting description of the American system as conceived by the Founding Fathers.[11]

Again he likens the two offices:

They did not foresee that, from being merely the first magistrate of a mildly aristocratic republic, the President would be metamorphosed, from Jackson onward, into a powerful tribune of the people.[12]

The Roman tribune was powerful principally because he could destroy the acts of the Senate by uttering the words, "I forbid!" His veto was the exercise of a nihilistic power which substituted nothing constructive. It has been described by Jolowicz as an anarchial act that could bring the whole of the state machinery to a standstill—a far cry from the American presidential functions.[13] The author sees Andrew Jackson as the first strong president who sowed the seeds of Caesarism, and states:

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[9] P. 328.
[10] P. 75.
[11] P. 76.
[12] P. 77.
[13] JOLOWICZ, HISTORICAL INTRODUCTION TO THE STUDY OF ROMAN LAW 11 (2d ed. 1952).

Andrew Jackson—"King Andrew" to his enemies—knew exactly where he stood. He told the Senate that the President alone is "the direct representative of the people, and responsible to them," the Senate itself being "a body not directly amenable to the people." Until then, in forty years of American political life, only nine bills had been vetoed by the Executive. Jackson alone vetoed twelve—and thus started the steady rise of executive pressure on the legislative branch, the transformation of the negative veto into a positive force at the Executive's disposal, until the days when Franklin Roosevelt would veto 631 acts of Congress.[14]

In that passage he, first of all, ignores the fact that what Jackson was referring to was a Senate elected, as it was in those days, by the state legislatures and not by the voters themselves as is the system since the adoption of the seventeenth amendment. Further, in stressing the large number of bills vetoed by Franklin D. Roosevelt, he weakens his own argument that a strong president—among whom he numbers Franklin D. Roosevelt—has absolute control over the legislative branch. Certainly on 631 occasions the Congress debated and passed laws unrestrained by the president, at least until he exercised his veto. Unlike the veto of the Roman tribune that was final, the veto of the president is suspensive and may, of course, be overridden by the Congress.

Further, the author states:

In addition, it was obvious that the obligation for Congressmen to be residents of their states and even districts destroyed all possibility for Congress to represent collectively the American nation. It became an assembly of local delegates, local ambassadors who come to terms with one another and with the nation as a whole, but whose primary duty is the defense of their particular constituents, not of the national interest.[15]

Aside from the fact that the author errs when he says that Congressmen must be residents of their districts—there is nothing in the Constitution or in the election laws of many States requiring that—his concept of the role of representatives is faulty. The words of Edmund Burke on this subject are a more accurate description of the representative's functions under the American constitution as well as in Britain. Burke said:

Parliament is not a *congress* of ambassadors from different and hostile interests; which interests each must maintain, as an agent and advocate, against other agents and advocates; but parliament is a *deliberative* assembly of *one* nation, with *one* interest, that of the whole; where, not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member indeed; but when you have chosen him, he is not member of Bristol, but he is a member of *parliament*. If the local constituent should have an interest, or should form an hasty opinion, evidently opposite to the real good of the rest of the community, the member

[14] P. 149.
[15] P. 77.

for that place ought to be as far, as any other, from any endeavour to give it effect.[16]

While admitting that "no constitutional means had been provided for the enforcement of the presidential will on a reluctant legislative branch," Riencourt nevertheless claims that the political party machinery filled the gap and ". . . through this connective tissue, the presidential will could flow down into Congress and manipulate it—if the will was strong enough." [17]

When Riencourt says that during the administration of Franklin D. Roosevelt "the potential Caesarism of the presidential office took a bold leap toward actuality," [18] he overlooks the fact that Congress, with an unprecedented Democratic majority, passed 631 laws that the president did not like, and, in other laws which he was constrained to approve, it inserted "riders" and other provisions that deprived him of his veto-power. For example, in enacting the several War Powers Acts, Congress provided that the powers granted should remain in effect until a certain time unless Congress by concurrent resolution terminated them at an earlier date. The termination by Congressional action of powers granted is as much a legislative act as the original grant—in effect, a repeal—but since concurrent resolutions, the contemplated vehicle of repeal, are not submitted to the president for his approval or veto, Congress was taking away from the president his constitutional right to veto its action.

In writing about Woodrow Wilson, Riencourt states:

Woodrow Wilson was at the helm when America entered the stormy waters of the World War. He had already proved to be a strong President so that there was no vacillation in executive authority, no Congressional government.[19]

The last phrase, "no congressional government," is only one example of unfortunate unsupported conclusions that are set out as facts. Incidentally, although he describes Wilson as one of the "strong" presidents who have sowed the seeds of Caesarism, he is somewhat inconsistent when he writes:

The tragedy was that Wilson's leadership proved inadequate throughout the entire conflict. Instead of dominating the field and laying down a long-range policy, he let himself be swayed by the strong isolationist sentiments that prevailed in the Middle West, asking in his Proclamation of August 1914 for complete neutrality in thought as well as in deed.

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[16] Speech by Burke, Electors of Bristol, Nov. 3, 1774.
[17] P. 152.
[18] *Ibid.* See also p. 144.
[19] P. 218.

Worse still, Wilson failed to rise to the required status of a national leader, failed to emancipate himself from party politics, and remained confined within the narrow bounds of his Democratic party.[20]

Many of the things the author says about the presidency have been said by contemporary or past Americans without seriously suggesting that the presidency is to become another Caesarism. As Collingwood in his *Idea of History* remarked about Hegel's *Philosophy of History:* "When consideration is given to the works of his predecessors, his book becomes far less startling and far less original." [21] All that his arguments seem to amount to is that the American president is an extremely powerful official—and there are few of us today who will deny that—but his power is circumscribed by the Constitution and the functions of the other two branches of government. Far from looking to the Constitution for his answers, Riencourt flatly declares that the problem is "not so much constitutional as psychological." He states:

Long ago, James Bryce discounted the usual fears of Americans and Europeans who thought that some ambitious President might attempt to seize absolute power through a brutal *coup d'etat.* But he added this warning: "If there be any danger, it would seem to lie in another direction. The larger a community becomes, the less does it seem to respect an assembly, the more it is attracted by an individual man." The reason for this is plain: the larger the masses, the more they display *feminine* traits by emphasizing emotional reactions rather than rational judgment. They instinctively tend to look for masculine leadership as a compensation—the leadership they can find in a strong man but never in an assembly, which is after all only a reproduction in miniature of their own faults and weaknesses. Instinct always prevails in the end. The great predominance of women in contemporary America can only bolster this trend.[22]

Another instance that the author mentions as being the harbinger of a coming Caesar is the following incident:

In the Cleveland speech, . . . [Roosevelt] made his first and last reference to the third term issue. It was a glancing reference and produced a surprising reaction from the crowd. Roosevelt said that, when the next four years are over "there will be another President"—at which point the crowd started to shout "No! No!" Thinking remarkably quickly, Roosevelt thrust his mouth close to the microphone and went on talking so that the shouts which suggested that he might be elected permanently should not be heard over the radio. The first ghostly contours of Caesarism were appearing and, as always, welling up from the people themselves.[23]

The author here reveals an unfamiliarity with American campaign speeches and tactics and gives too great a significance to extravagant partisan actions. The reaction that he attributed to

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[20] P. 219.
[21] COLLINGWOOD, THE IDEA OF HISTORY 113 (1930).
[22] P. 329.
[23] P. 253.

President Roosevelt must have been directed primarily at toning down the implications of a third term—a break with tradition—rather than to hide the "suggestion that he might be elected permanently."

Riencourt seems to give entirely too much significance to statements by politicians and writers that sound ominous in the framework of this book, whereas they were either simply amusing or more limited in scope when originally uttered. For example, he quotes the humorist Will Rogers as saying:

> I don't know what additional authority Roosevelt may seek, but give it to him, even if it is to drown all the boy babies . . . it just shows you what a country can do when you take their affairs out of the hands of Congress.[24]

On almost every page of the book there are statements that are stimulating and provocative and, if this reviewer seems to disagree with everything the author says, it is only because Riencourt overstates his case. There is no question that the office of the American presidency is an extremely powerful one. There is no question that certain presidents by force of their personality are "strong" presidents. However, the body that controls the purse strings—and in our system this is the Congress—also controls to a very large degree the making of policy and certainly the execution of policy. Nowhere in the volume does the author give consideration to this factor. In addition he pays very little attention to the role of the Supreme Court in passing upon the constitutionality of laws and the acts of the executive department. True, he does mention in passing the decision in *Marbury v. Madison*[25] of which he says "the theory was firmly established that the Supreme Court was the one and only interpreter of the Constitution."[26] There are probably many more persons concerned today with what they claim is usurpation of power by the Judiciary than with a trend toward Caesarism on the part of the Executive.

It must be reported that this is a well written, readable book that reflects an enormous wealth of learning and historical information. The author writes in a strong style that may too easily beguile the reader who accepts at face value many of his statements that are unsupported. If his premises are accepted his conclusions seem almost inescapable—*post hoc ergo propter hoc.*

Everyone interested in government and law should read this book. It may be good preventive medicine, an anti-tranquilizer, and its alarms will help to ward off the lethal attacks of psychological lethargy that the author sees as the condition of Caesarism. In the

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[24] P. 234.
[25] 1 U.S. (1 Cranch) 368 (1803).
[26] P. 121.

words of John Philpot Curran, "The condition upon which God hath given liberty to man is eternal vigilance." [27]

CHARLES J. ZINN.*

ESSENTIALS OF INSURANCE LAW. By Edwin W. Patterson. Second Edition, McGraw-Hill Book Company, 1957. Pp. XIV, 558. $7.50.

When the Dean of insurance scholars produces a new book on the subject, the scholars' response is immediate and enthusiastic. As Professor George W. Goble has stated in a recent review:

> . . . Professor Patterson has produced the best book yet written on the subject. This addition to the author's already numerous contributions to the law of insurance is an appropriate climax to his many fruitful years of service as teacher, scholar, author and legislative draftsman.[1]

While these are words of high praise, they are both accurate and appropriate in view of the product they describe. Professor Patterson's book is addressed primarily to people in the insurance business, their clients, employees of insurance companies, agents, brokers and insurance managers. Lawyers and law students, however, will find it an authoritative guide because of its practical approach to current insurance law problems.

The book presents, with a minimum of legal language, the essentials of insurance law in its relation to the insurance business and its practices. The scope includes the major legal problems of the insurance contract and explanations of the rights and duties of insurers and insureds under it.

The initial chapter on governmental control furnishes an outline of the types and functions of insurance regulatory legislation for those who may need special information on these topics and provides the legal and institutional background of the insurance contract, which is discussed in the ensuing chapters. The book is chiefly devoted to the making, validity, and enforcement of insurance contracts. Informal contracts as well as formal policies are discussed, and the final chapter is concerned with those oral or informal dealings be-

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[27] Curran, Speech on the Right of Election, 1790.

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[1] Goble, Book Review, 9 HASTINGS L.J. 232, 234 (1958).