

On American Power and Politics (Part I)

The FBI's raid of former President Donald Trump's Mar-a-Lago estate on August 8th 2022, has prompted wide-ranging speculation in the United States about the rights and powers of any law enforcement agency to carry out such a raid. Trump and his attorneys have accused the FBI and the Department of Justice to be playing "political games," while arguing the "executive privilege" of any President to keep and store any document he chooses in his private domicile. Ironically, the present POTUS, Joe Biden, has offhandedly confessed to reporters that he is also storing some confidential documents in his home (!!).

This controversy has awakened in me some interrogations about the meaning of words like "politics" and "state power" –both which have generated much ambiguity over the centuries when considered in the American context.

Of course, one could argue that everything is political –existing as we all do in a world run on Darwinian principles of struggle and survival of the fittest (i.e., strongest, richest, smartest, etc.) Or, if one wishes to quote ancient thinkers, argue with Aristotle that man is by nature a political animal (Ἄνθρωπος φύσει πολιτικὸν ζῷον). This famous statement is presented in the second chapter of book I of the *Politics*, where he states: "From these considerations it is evident that the *polis* is one of the things that exist by nature, and that man is by nature a political animal" (*Pol.*, I, 2, 1253a1– 3).

Aristotle's statement is a critical response to philosophical views that prevailed in his time. According to Fred D. Miller, "The thesis that the *polis* is (or exists) by nature... is clearly a response to those, like the sophists, who claim that the *polis*—together with its laws and justice— exists by convention rather than by nature" ¹. Similarly, Wolfgang Kilmann states that it is "important for Aristotle to fight the conception that the state occurred by convention [*nomôi*] and is based on a social contract" ².

The problem is that the American "polis" of 2022 is a very different chimera from the Athenian **polis** or city-state that Aristotle knew. At its peak in the later 5th Century BCE, the total population of Athens was about 250,000. This included about 40,000 male citizens, 120,000 women and children, 70,000 slaves and 20,000 resident aliens.

Any (and only) male citizens could participate in the main governmental assembly of Athens, the *ekklēsia*. This assembly met at least once a month on the *Pnyx* hill in a dedicated space which could accommodate around 6,000 citizens. Any citizen could speak to the assembly and vote on decisions by simply holding up their hands. The majority won the day and the decision was final. Nine presidents (*proedroi*), elected by lot and holding the office one time only, organized the proceedings and assessed the voting.

In the American federation there are many different levels and domains of power. According to **the doctrine of separation of powers**, the U.S. Constitution distributed the power of the federal government among three branches --i.e., the legislative, the

executive and the judicial— and built a system of checks and balances to try to ensure that no one branch could become too powerful vis-à-vis the other two. However, in American practice, those three powers can also be the domain of states and/or cities.

One could argue that America was originally run by city-states like those in ancient Greece. For instance, Jamestown was founded (1607) before the “state” of Virginia ever existed. And Philadelphia was founded in 1682 by William Penn in the English Crown Province of Pennsylvania. The town of Boston was founded in 1630, becoming the political nucleus of the province of Massachusetts. All 13 original British colonies were only labeled as “states” after the Continental Congress in 1781 ratified the first national constitution, the Articles of Confederation, under which the country would be governed until 1789, when it was replaced by the U. S. Constitution.

This highly decentralized American political system was inspired by the Protestant tradition of locally-electing church pastors as opposed to the highly hierarchical Catholic practice. The original American towns and cities took great care to democratically elect their mayors as well as their courts, sheriffs and militias. This practice was then inherited by the new entities called “states” to express their great autonomy vis-à-vis any central authority. Unfortunately, the original mistrust between the federal and state governments enshrined in the Constitution has produced horrendous results such as the Civil War (1861-1865), which cost the lives of more than 620,000 Americans; as well as the present violent confrontation between Republicans and Democrats.

Returning now to our original questions triggered by the FBI raid on Trump’s Mar-a-Lago palace: (1) Who has the legitimate power to raid a citizen’s domicile to recover secret and confidential documents issued by the federal government? (2) Or, to put it in politico-philosophical terms: Do federal “judicial” (i.e., the Justice Department) and/or law-enforcement agencies under their command [executive power] have the power to raid the domicile of a former elected official —now just an individual citizen —to recover important federal [executive power] properties?

Unfortunately, the issues become even more muddled as we inquire as to the meaning of phrases such as “Top Secret” which pertain to the powers of Military Intelligence, which were never enunciated or even appear in the original Constitution. But this is matter for another possible forthcoming essay on the Military/Industrial Complex.

¹ Miller, F. D. Jr. (1995), *Nature, Justice, and Rights in Aristotle’s “Politics”*, Oxford, Oxford University Press. (pg.37)

² Kullmann, W. (1991), “Man as a Political Animal in Aristotle”, in D. Keyt, F. D. Jr. Miller, (ed.), *A Companion to Aristotle’s “Politics”*, Oxford, Blackwell, p. 94– 117.