

BUT THE BOYARS PROTEST!

It seems that every day I come across articles on the Internet describing how one or another echelon within the Deep State is plotting, preparing, or even putting into operation some act of aggression against the Trump Administration. For example, at <http://truepundit.com> I ran across the report entitled “EXCLUSIVE: FBI’s Own Political Terror Plot: Deputy Director and FBI Brass Secretly Conspired to Wage Coup Against Flynn & Trump” (14 March 2017). Then there are articles describing how confusion and conflict reign at the highest levels of the Administration itself. For example, at <https://www.intellihub.com> I found Tyler Durden’s piece, “Civil War’ Breaks out at White House over trade, Goldman is winning” (14 March 2017).

Perhaps I should discount such material, inasmuch as OpenSources.co defames the first of those web sites with the nouns “bias” and “clickbait”, and the second with the terms “conspiracy” and “unreliable”. But, in its extensive list of “notCredible” sites, it also denounces NewsWithViews with the terms “fake” and “conspiracy”. So I probably should subscribe to the old adage “in for a penny, in for a pound”, and forge ahead anyhow.

Yet what is reported these days even by the handful of “mainstream-media” sites deemed credible by OpenSources.co is in line with my initial observation: The Trump Administration as an institution and President Trump as an individual are under incessant attack by clandestine enemies within the Executive Branch itself—leakers, obstructionists, saboteurs, renegades, and sleepers sowed as dragon’s teeth during Mr. Obama’s residence in the White House. I do not subscribe to the well-roasted chestnut that “no one ever learns anything from history except that no one ever learns anything from history”. For inasmuch as I can attest to having learned a *few* things from history myself, I must presume that others can do so as well. My question is: Can *President Trump* learn *enough* from history to defend his Administration—and himself personally—from these entrenched and powerful “Fifth Columnists”?

A snippet of history quite relevant to this situation comes from the days of Russian Tsardom (an appropriate source of insight, given the present brouhaha about supposed Russian influence over Mr. Trump). In those times, the Russian peasants had a saying: “The Tsar wants it; but the boyars protest!” By this they meant that the Tsar—their “Little Father” (*batiushka*)—personally sympathized with their plight and ardently desired to bring about major reforms of serfdom to their especial advantage. But “the boyars”—which by the time of Nicholas II included the arteriosclerotic Russian aristocracy (the original “boyars”), the landed squirarchy, and the gargantuan governmental bureaucracies (not the least of which was the dreaded *Okhrana*, the secret police)—were inevitably successful in thwarting the Tsar’s benevolence in favor of their own avarice, ambition, and appetite for asserting abusive powers against the people. Nonetheless, the peasants continued to hope that the *next* time the Tsar strove to aid them his efforts would prosper. Apparently they never realized that, if time and again “the boyars” could interpose an effective veto over the Tsar’s plans, then “*the boyars*”, not the Tsar, were the real rulers of Russia. That is, “the myth of the Tsar” truly *was* only a myth.

In Russia, “the myth of the Tsar” outlived the last legitimate Tsar, to continue in currency into the Bolshevik era. It is reported that, on his final visit to his aged mother in Gori, Stalin tried

to describe to her his position in the Soviet state. “I am like the Tsar”, he explained. To which she responded: “It would have been better had you become a priest” (which might have happened, inasmuch as Stalin had briefly attended a Russian Orthodox seminary in his youth). In any event, Stalin *was* “like the Tsar”, only more so—the resurrection of Ivan the Terrible (whom he consciously emulated) rather than an incarnation of the spirit of Alexander II (who had abolished serfdom, whereas Stalin reinstated the peasantry’s bondage on collective farms). So “the myth of the Tsar” naturally came to apply to him, too.

During the great purges of the 1930s, many honest “soviet people”, including members of the Communist Party innocent of any actual wrongdoing, were imprisoned or deported to the GULAG. The “good communists” caught in the net of denunciation, arrest, torture, and conviction of crimes no one had committed were particularly wont to imagine that their fate had been decreed by malevolent underlings in the secret police (such as Yagoda or Yezov), and that “if only Stalin knew” what injustices they had suffered, they would be exonerated. Floods of pathetic letters penned by these wretches poured into the Kremlin from the cells and camps of the OGPU and then the NKVD, begging “Great Stalin”, their “leader and teacher”, “the best friend of all children”, *et cetera* to review their cases and set them “free” (a highly deceptive status in the Soviet Union, but doubtlessly preferable to slavery in the gold mines of the Kolyma). The problem was, of course, that Stalin *did* know. Yagoda, Yezov, and their merciless minions were *his own* creatures, doing *his own* bidding—to be themselves ruthlessly purged when it finally suited his fancy.

“The myth of the Tsar” did not die with Stalin, either. All modern political systems continue to subscribe to (and suffer from) it to one degree or another. This is because all modern political systems, howsoever they may fulsomely describe themselves as “democratic” in character, adhere in actual operation to “the leader principle” (*das Führerprinzip*, to use the language most appropriate in which to denote the concept). According to “the leader principle”, whatever the formal legal structure of the polity may be, in practice supreme authority inheres in “the leader”—whether denoted “Autocrat of all the Russias” (the Tsar, the most extreme exemplar of the “leader”-figure), “Vozhd” (Stalin), “*der Führer*” (Hitler), “*Il Duce*” (Mussolini), “the Chief” (a nickname his cronies applied to Franklin D. Roosevelt), “the Great Helmsman” (Mao Tse-tung), “the Decider” (George W. Bush), or the archetype “Big Brother” (from whose real-world counterparts Orwell drew the inspiration for *Nineteen Eighty-four*). In the final analysis, “the leader” determines and directs all governmental policy, his mandates being transmitted to the masses by whatever coterie of subordinate “leaders” the particular power-structure happens to employ for that purpose.

This is a prime reason why American Presidential elections have degenerated into raucous auctions in which candidates bid for votes with their *personal* promises to perform monumental, even magical, acts of political, economic, social, and cultural prestidigitation that in some fundamental way will “change” this country from one Administration to another—with scant concern directed to answering the obvious questions: “Change from what to what?”, “Why?”, “How?”, “With what possible unintended consequences?”, and (most important of all) “On the basis of what *constitutional* authority?”

Today, all too many among America’s “Deplorables” subscribe to “the myth of the Tsar”, perhaps unwittingly yet no less unwaveringly than the rudest Russian peasant ever did. These people

naïvely look to their “leader and teacher” Donald Trump—“the Donald”, as obvious a personal “leaderesque” moniker as ever there was one—to perform the Herculean task of “making America great again” by “draining the swamp”. And perhaps with apparent good reason, because President Trump (in Mao’s disingenuous words) may very well want to “truly take the stand of the people and speak out of whole-hearted eagerness to protect and serve them”. See *Quotations From Chairman Mao Tse-tung* (Peking, China: Foreign Languages Press, 1966), at 54. But “the Deplorables” leave out of account what “the boyars” infesting “the swamp” have in mind, *and within their ability to achieve*, by way of “protest”.

It would seem, too, that President Trump flatters himself with “the myth of the Tsar”—that he from the White House, no less than a Russian Autocrat from the Winter Palace, can simply announce his will, if not by issuing an Imperial *Ukase* then by signing some half-baked Executive Order, and thereafter can expect that the complex machinery of government will automatically arrange that his will be done, as usually it was done throughout his vast real-estate empire.

This is a potentially fatal error. For, in any polity administered pursuant to “the leader principle”, although a “Tsar” (by whatever name) is ensconced at the top, and the great mass of ordinary people fervently yearns for his succor at the bottom, various “boyars” in public office engage or disengage the gears of government in between, while clutches of vulpine “boyars” in the private sector—especially the big bankers, major participants on the “industrial” side of the military-industrial complex, and so on—also attempt to affect how the machinery runs, either by oiling the gears or by throwing sand into the gearbox. So “the Tsar” always sits insecurely in the titular “driver’s seat”, and the people are often “taken for a ride” to a destination they never desired, because inevitably “boyars” hostile to “the Tsar” inside and outside of the government figure out that they can preempt, frustrate, sabotage, or dispense entirely with what he wants to do, and what the people expect of him, by the practical “protest” of their contradictory actions or inactions—which disloyalty and opposition are often difficult for “the Tsar” to discover, let alone to thwart *in time* (the lesson President Kennedy learned, with fatal finality, in Dealey Plaza).

To be sure, this is not to deny that the efforts of *some, even many*, trustworthy and competent “boyars” in public office are necessary if a complex modern government—even a constitutionally limited government such as that of the United States—is to function effectively. By hypothesis, though, *these* “boyars” do not envision themselves as licensed to protest against and interfere with the operations of the government they are supposed to serve. So any plan for “draining the swamp” must be carefully fashioned in order to avoid flushing away the fresh along with the fetid water.

Under present circumstances, this will prove to be a daunting task. For arrayed against President Trump and “the Deplorables” are legions of acutely hostile “boyars” as selfish, factional, intransigent, implacable, ideologically fanatical, disloyal, criminally minded, replete with political and economic power in both the public and the private sectors, *and especially strategically placed to do their worst* as any who ever opposed a Russian Tsar. For example, within the government, Congress harbors not a few muddle-headed Kerensky-like figures who openly advocate, and even propose to assist, President Trump’s overthrow by means of impeachment, invocation of the Twenty-Fifth Amendment, or instigation of some other Watergate-style crisis. Rogue operatives in the CIA, the FBI, and other *Okhrana-esque* arms of the General Government’s secret-police apparatus are applying

their nefarious talents for espionage, intrigue, and “régime change” to the demolition of both the Administration and Mr. Trump personally. Unbending in their assertions of “absolute” authority, “judicial supremacists” in the kangaroo courts shrink from no absurdity in their attacks on the President’s attempts to preserve this country’s national sovereignty by controlling illegal and otherwise undesirable immigration—and will surely extend their obstructionism into other areas. And not just one Rasputin seems to haunt President Trump’s inner circle.

Outside of the government, numerous comrades in the *neo*-Bolshevist “vanguard of the proletariat” in Mr. Obama’s “Organizing for Action” project (the so-far-stalled “Purple Revolution” under a new alias) lust to don the mantle of a latter-day Lenin or Trotsky—not, to be sure, while hiding out in Sergei Alliluyev’s simple lodgings in old Petrograd, but instead by openly maintaining ties to the well-advertised center of “the resistance” at 2446 Belmont Road, NW, in the plush Kalorama sector of the District of Columbia. Renegade *multi*-billionaires such as George Soros perform the function of the original Bolsheviks’ paymasters, such as Alexander Helphand and Yakov Fürstenberg. The pit vipers in the “mainstream media”—well exemplified by a certain insufferable *neo*-conservative propagandist who “tweeted” that “if it comes to it, prefer the deep state to the Trump state”—spew venom saturated with “the genius of abuse” characteristic of Lenin himself. See Dmitri Volkogonov, *Lenin: A New Biography* (New York, New York: The Free Press, 1994), at 483-484. And while President Trump’s “deplorable” supporters suffer suppression of their freedom of speech on college campuses, as well as physical assaults and intimidation in the streets, at the hands of “social-justice warriors”, the President himself is threatened with assassination by deranged “celebrities”. (It seems that the only actors from the original Bolshevik cast whose stand-ins have not yet made their appearances in the contemporary *mise-en-scène* are the Latvian Riflemen.)

Confronted by these case-hardened foes, dedicated to their utter destruction, what are President Trump and “the Deplorables” to do?

Rather than suffer themselves to be betrayed by “the *myth* of the Tsar”, they must transform that myth into reality. First, they must recall that the Tsars and the peasants in old Russia were doomed to fail, because in administrative practice the Tsars could not turn to the peasants for support, but found themselves obliged to work through “the boyars”; and because in legal principle the peasants enjoyed no special authority to support the Tsars by throwing the weight of their numbers into the balance against “the boyars”. Second, they must realize that, under America’s Constitution and laws, President Trump can turn to “the Deplorables” *right now*, with “the Deplorables” legally empowered *right now* to assist him.

Conceivably, just as the last Kaiser’s General Staff transported Lenin and his entourage across Germany in a sealed train to stir up a revolution in Russia to depose the Tsar, so too might one or more of the factions in the Deep State be stage-managing “the resistance” to topple President Trump. It really does not matter, however, whether “the resistance” is an independent movement, or an “intelligence operation” being run by one or more of those factions. In either case, the same problem presents itself. If “the resistance” and its backers have not yet crossed the line which separates legitimate political protest from outright sedition, they are arguably only a few Angstrom Units away from doing so. See 18 U.S.C. §§ 2383 through 2385. Being perfectly aware of this, they are obviously counting on political cover *and especially legalistic protection* from “boyars” disloyal to the Trump

Administration whose strategic positions within the legislative, executive, and even judicial branches of the government of the United States and of various States as well, and within the upper reaches of America's private sector, will enable them to disrupt, and perhaps to defeat altogether, the Administration's plans.

Under these circumstances, it is hardly paranoiac to predict that throughout this country "unlawful obstructions, combinations, or assemblages * * * against the authority of the United States[will] make it impracticable to enforce the laws of the United States in [every] State by the ordinary course of judicial proceedings". See 10 U.S.C. § 252. Neither is it fantastic to foresee that such "unlawful combination[s]" or "conspirac[ies]": (i) will "so hinder the execution of the laws of [certain] States, and of the United States within th[ose] State[s], that [some] part or class of [the] people [will be] deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of th[ose] State[s] [will be] unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection"; and (ii) will "oppose[] or obstruct[] the execution of the laws of the United States or impede[] the course of justice under those laws". See 10 U.S.C. § 253. *For, whoever is ultimately responsible for them, events of this kind are already taking place, and can be expected to increase in number, scope, and intensity as time goes by.*

If executed in a thoroughgoing and uncompromising manner, the laws which speak to these dangers are fully capable of dealing with them. The Constitution empowers Congress "[t]o provide for calling forth the Militia to execute the Laws of the Union", and appoints the President the "Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States". U.S. Const. art. I, § 8, cl. 15; art. II, § 2, cl. 1. Pursuant to its power "[t]o provide for organizing * * * the Militia" for the purposes for which it may "provide for calling forth the Militia", Congress has declared that (with only a few exemptions) "the unorganized militia" shall consist of "all able-bodied males at least 17 years of age and * * * under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States" and "who are not members of the National Guard or the Naval Militia". U.S. Const. art. I, § 8, cls. 16 and 15; 10 U.S.C. § 246 and 247. This includes the great majority of such "able-bodied males". And the statutes which address the aforesaid "unlawful obstructions, combinations, * * * assemblages", or other "conspirac[ies]" authorize the President to "call into Federal service *such of the militia of any State * * * as he considers necessary*", and to "us[e] the militia" in support of "*such measures as he considers necessary*", in order to suppress those illegal activities. 10 U.S.C. §§ 252 and 253 (emphases supplied).

Inasmuch as these statutes refer to "such of the militia of any State * * * as he considers necessary", and to "the militia" in general, the President may exercise the option to "call into Federal service" *only* "the unorganized militia", *in whole or in part*, as he alone sees fit. And to put into operation "such measures as he considers necessary", he may order those "able-bodied males" called forth to "execute [*whatever other*] Laws of the Union" may be invoked against the said "unlawful obstructions, combinations, * * * assemblages", or "conspirac[ies]", again as he alone deems appropriate, pursuant to his constitutional duty to "take Care that the Laws be faithfully executed". U.S. Const. art. II, § 3. (I shall leave to President Trump's entourage the tedious clerical task of compiling a catalogue of those other laws. After all, there *are* limits to the free legal advice even the most ardent patriot should be willing to provide to a billionaire.)

Self-evidently, President Trump's employment of these constitutional provisions and statutes would demythologize "the myth of the Tsar" as far as he and the "able-bodied males" called forth from among "the Deplorables" for service in "the unorganized militia" would be concerned. He could call upon "the Deplorables" *directly* as their own "Commander in Chief". "The Deplorables" could support him *directly* with legal authority vouchsafed to them by the Constitution and statutes. *And hostile "boyars" would have nothing to say about it, directly or indirectly.* For the President's "call into Federal service" of "the unorganized militia" would not depend upon the intermediation of *any* "boyars". And no significant amount of interference by hostile "boyars" would be possible, because "the unorganized militia" consists of far too many "able-bodied males" *who count themselves among "the Deplorables" (or at least are opposed to "the resistance")* for those "boyars" to be able to suborn or scare other than a smattering of them into becoming turncoats.

To be sure, as a practical matter President Trump would need to ensure the coöperation of a few loyal "boyars"—to wit, the Governors of various States who would support him enthusiastically. Inasmuch as he could call forth "such of the militia of any State * * * as he considers necessary", the President could pick and choose among the States—and thus among the Governors. And, once selected, in their capacities as the commanders in chief of their own States' "unorganized militia" the Governors would be subject to the President's supreme authority as "Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States", to the very same extent as any other militiaman—and thus would be immune from interference in the performance of their Militia duties by *any* "boyars" whatsoever.

The steps necessary to put this plan into operation would include the following:

(i) Without fanfare (by way of "twitter" or otherwise), the President would establish a "Militia advisory committee" composed of *knowledgeable* people (not the amateurs on whose advice he has seemed too often to be willing to rely so far).

(ii) Having enlisted a loyal Governor in a particular State, the committee would devise a plan consistent with that State's laws for calling forth her "unorganized militia", whereby those militiamen with the knowledge, skills, experience, and especially attitudes necessary and proper for "executing the Laws of the Union" would be identified as suited for active duty, pursuant to the President's authority to "call into Federal service *such of the militia* of any State * * * as he considers necessary". This procedure would be extended to all of the States the committee considered prudent to involve in the operation.

(iii) Militiamen suited for active duty would be encouraged to enlist as *volunteers* in such numbers as were needed (although in special circumstances some might be drafted into service). All other members of "the unorganized militia" would be called forth in principle, but allowed in practice to obtain exemptions from personal service contingent on their payments of an annual compensation, the amount of which for each individual would be so calculated that the whole would provide no less than the yearly maintenance of the militiamen on active duty, and be expended for no other purpose.

(iv) The qualified militiamen selected for active duty would then receive appropriate final training, such necessary equipment as they could not supply themselves, "security" and other

clearances, and so on, after which they would be deployed “to execute [such] Laws of the Union” as the President “consider[ed] necessary to [be] enforce[d]” against the “unlawful obstructions, combinations, * * * assemblages”, or “conspirac[ies]” threatening this country.

(v) Because, in “using the militia” for that purpose the President could “take *such measures as he consider[ed] necessary*”, with no apparent restriction so long as those measures rationally related to “the militia”, he could require that militiamen posted to active duty be provided with firearms suitable for militia service—as all members of “well regulated Militia” must always be. U.S. Const. amend. II. Such firearms could (and most likely would) include so-called “assault rifles”. In some States described as “blue” for electoral purposes (but actually “red” in political coloration)—such as Connecticut, New York, New Jersey, Maryland, and California—ordinary citizens within “the unorganized militia” are prohibited from acquiring “assault rifles” at all, or may possess them only subject to onerous restrictions. Notwithstanding that certain decisions of the kangaroo courts have sustained many of these prohibitions and restrictions—the most egregious example of which to date is *Kolbe v. Hogan*, No. 14-1945 (4th Cir., 21 February 2017)—the President could order the militiamen called forth for active duty to provide themselves with, and thereafter to maintain personal possession of, such firearms. And those States—along with the rogue judges hauling swamp water for them—would be obliged to acquiesce in his decision. See U.S. Const. art. VI, cls. 2 and 3. To allay the apprehensions of champions of “States’ rights”, I must add that this would not offend the Tenth Amendment, because the latter provides that “[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”—and the powers of Congress “[t]o provide for calling forth the Militia to execute the Laws of the Union”, and of the President to act as “Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States” and to “take Care that the Laws be faithfully executed”, are explicitly “delegated to the United States by the Constitution”. U.S. Const. art. I, § 8, cl. 15; art. II, § 2, cl. 1; and art. II, § 3.

Needless to emphasize, other details which if specified here would tax my readers’ patience would need to be worked out before this plan could go into operation. And a number of other constitutional justifications for each of those details, as well as for the matters already set forth, could be presented. But, as noted above, there *are* limits to my altruism.

There are, though, no limits to my circumspection, and to the anxiety it arouses. The contradictions between Mr. Trump’s past promises and President Trump’s present performance, and especially the halting steps his Administration has taken in the face of opposition a constitutionally self-confident Chief Executive would beat down with well-deserved contempt, raise disquieting questions. Is Mr. Trump dedicated to fighting to the final bell on behalf of “the Deplorables”; or has he been put into the ring to take a dive for his real managers in one or another faction of the Deep State? The incessant jeers and cat-calls from the mockingbirds in “the mainstream media” perched at ringside certainly suggest that he is an honest contender for the heavyweight championship who intends his hooks, jabs, and uppercuts to strike with the full force of truth, justice, and the American way. Yet if he wants to win he has to land a *knockout* punch, and soon, by bringing “the Deplorables” into his corner in the manner the Constitution provides. If he pulls *that* punch, he may be throwing the bout, or be simply too inept to be a real contender. In either case, this country will lose the biggest bet it has ever made.

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