PRESIDENT TRUMP ON "LAW ENFORCEMENT"

One of the major concerns I have had with Donald Trump as a candidate, and continue to have with President Trump in the White House, is the all-too-often ambiguous, even amorphous, character of his pronouncements on important policies. To be sure, this defect might be only apparent—the unfortunate result of combining Mr. Trump's penchant for truncated statements with my own inability to extrapolate from the few words he does provide a deeper meaning which he may intend for them to convey. (I readily admit that I must be counted among the ever-diminishing set of Americans who consider twitterite and fakebookish discourse truly deplorable means for attempting to communicate ideas with depth any greater than that of a cookie sheet.) On the other hand, perhaps Mr. Trump and his advisors are at fault for not offering more specificity in what they cause to be published below the White House's by-line.

For a prime example of the latter demerit, most recently my attention was piqued when I came across the White House's internet post entitled "Standing Up For Our Law Enforcement Community". *See* <https://www.whitehouse.gov/law-enforcement-community>. Unfortunately, this is an essay without a compelling theme reflective of Mr. Trump's promise to "make America great again". Rather than locating itself in a recognizably American historical and legal context, providing a critical overview of contemporary problems, and proposing a long-term political strategy *consistent with fundamental constitutional principles*, it offers little more than slogans—the main one being that "[t]he Trump Administration will be a law and order administration". Inasmuch as the first and foremost duty of *every* President under Article II, Section 3 of the Constitution is to "take Care that the Laws be faithfully executed", this glittering generality imparts to the reader precious little of actual substance. For the question remains: "*What* body of 'law' and *what* kind of 'order' will the Trump Administration enforce?" Oh, I realize (perhaps "hope" is the more accurate verb) that somewhere over the political rainbow there must be more in the minds of the author(s) of this post than the few paragraphs it contains. My concern, though, is: "*What* more?"

1. Although its title refers to "our law enforcement community", the White House's post nowhere even suggests that the latter "community" includes in any way, shape, or form "the Militia of the several States", the *one and only* "community" to which the Constitution explicitly assigns the authority and responsibility "to execute the Laws of the Union" (and of their own States as well). *See* U.S. Const. art. II, § 2, cl. 1; art. I, § 8, cl. 15; *and* amends. II and X. One must wonder, therefore, what *extra*-constitutional, *non*-constitutional, or even (Heaven forefend) *anti*-constitutional notion of "standing up for our law enforcement community" the White House has in mind, when it leaves out of consideration any rôle for the Militia.

This oversight is especially ominous in light of the *neo*-Bolshevist "color revolution" which "leftists" have launched throughout this country in order not simply to demoralize, demonize, and delegitimize, but ultimately to *destroy* entirely the Trump Administration—in service, not of "the working class", but of predatory globalist *multi*-billionaires for whom "the working class" no longer counts for anything, any more than does any other conglomeration of "useful idiots" and

"transmission belts" who and which can be aggregated and energized under the divisive banners of contemporary "identity politics". Mr. Trump and his advisors will prove to be extraordinarily naïve, amateurish, and even feckless if they fail to realize that, absent timely revitalization of the Militia, not just the present Administration but also America as a whole will all too soon be submerged in very hot and deep political waters from which their extrication will be exceedingly difficult. And no, I am *not* referring to the National Guard—which is no "militia" at all (in the constitutional sense), but instead consists of the "Troops, or Ships of War" which the States may "keep * * * in time of Peace" "with[ ] the Consent of Congress" under Article I, Section 10, Clause 3 of the Constitution (that is, a component of "the standing army"). Rather, "the Militia of the several States" consist of all of WE THE PEOPLE—or at least that part of them which the Declaration of Independence styled "the good People"—who today constitute "the Whites" *versus* "the Reds" (in line with the dichotomy in the original Bolshevist "color revolution"). In keeping with the Declaration of Independence's excoriation of King George III for "ha[ving] affected to render the Military independent of and superior to the Civil power", "the good People" of the present time must impress upon the Trump Administration the imprudence of deploying the National Guard or any other component of the regular Armed Forces to deal with this matter under some variety of "martial law" (in the sense most Americans give to that term). Rather, reliance must be had on the Militia, as the true constitutional recourse against the domestic lawlessness of any contemporary "color revolution". *See* Parts 6 and 7, below.

2. The White House's post asserts that "[o]ne of the fundamental rights of every American is to live in a safe community * * * free of crime and violence". It does not, however, answer (or even ask) the question: "'Safe' *at what cost?*" The Constitution does. One of the goals it sets out in its Preamble is to "ensure domestic Tranquility", which obviously describes the situation which obtains in "a safe community * * * free of crime and violence". Another goal identified in that same place is to "secure the Blessings of Liberty to ourselves and our Posterity". And the Preamble links these two goals with the unqualified conjunction "and", thereby demanding that *both* of them are to be achieved *simultaneously*, not one to be sacrificed for the supposed benefit of the other. For self-evident to the Founders (just as it should be to contemporary Americans) is that this country can *never* secure the full measure of "domestic Tranquility" without maximizing "the Blessings of Liberty", and *vice versa*.

3. So it is troubling that the White House's post takes the one-sided position that "[t]he dangerous anti-police atmosphere in America is wrong. The Trump Administration will end it." For this fails to recognize that *two quite different* types of "anti-police" activism exist in this country today. One of them intends to undermine "domestic Tranquility" by sabotaging the legitimate work of law-enforcement agencies in every way possible, and therefore should be exposed and eradicated; whereas the other desires to protect "the Blessings of Liberty" against threats emanating from *rogue* law-enforcement personnel, and therefore should be praised and promoted.

The "anti-police atmosphere" antagonistic to "domestic Tranquility" is being propagated by groups intent upon engendering divisions and mutual antagonisms within society, and especially turning as many Americans as possible against their own governments at every level of the federal

system, so as to create the chaotic conditions propitious for waging a successful *neo*-Bolshevist "color revolution". The strategy at work is quite simple: Because, of all governmental agencies, police forces interact with the citizenry on the closest day-to-day basis, most common Americans tend to treat them, rightly or wrongly, as particularly representative of "the government" as a whole. If ordinary people can be inveigled to turn against the police in particular, they will naturally turn as well against the government in general. If they do so in large enough numbers, society will become effectively ungovernable, and thus ripe for all sorts of political upheavals. So the White House's post is correct to emphasize that "[o]ur job is not to make life more comfortable for the rioter, the looter, or the violent disrupter"—because, although most of these street criminals are little more than "useful idiots", they (along with the other "disrupters" who know precisely what they are about) constitute the first wave of cannon fodder in the initial offensive in the *neo*-Bolsheviks' "color revolution". If they cannot be checked at the outset, their aggression will only increase in its scope and intensify in its destructive effects.

On the other hand, the contemporary "anti-police atmosphere" favorable to "the Blessings of Liberty" is the result of many Americans' fully justifiable complaints about intolerable levels of patently lawless, *yet all-too-often unpunished*, behavior by rogue law-enforcement personnel occurring across the length and breadth of this country. Of course, in a free society operating under "the rule of law" (and especially the constraints of "the rule of *constitutional* law"), *any* misconduct by law-enforcement agencies should be denounced as excessive, and *every* malefactor in their ranks should be held *maximally* accountable for his misconduct. After all, when an officer of the law breaks some law, he violates not only that particular law which he has a general duty to obey in his capacity as an ordinary citizen, but also the very principle of law-enforcement itself which he (unlike an ordinary citizen) is specially sworn to uphold. So, when a representative of the law breaks the law *and gets away with his misbehavior under color of the law*, his actions inevitably generate disrespect for all law among everyone else. Today, though, the level of police misconduct throughout America is, not simply excessive, but even extremely so, primarily because of the manner in which it tends to be mishandled. All too typically, such misconduct as comes to public attention is explained away by spokesmen for "police unions", then excused by departmental "internal affairs" investigators and accommodating prosecutors who "find" that the perpetrators' actions were in accord with various "policies" and "guidelines" (as if those magic words could set at naught constitutional commands). And later on, civil lawsuits brought by the victims are dismissed or otherwise frustrated on the grounds that the perpetrators are privileged to avoid personal liability perforce of fantastic "immunity" defenses of one sort or another concocted by the kangaroo courts under color of "judicial supremacy".

In light of these circumstances, *how* can the Trump Administration fulfill the promise that it "will end [the anti-police atmosphere in America]"—but as to *both* aspects of that "atmosphere"? The White House's post is not wrong to point out that "[o]ur country needs more law enforcement, more community engagement, and more effective policing". The proper manner in which to meet these needs, though, remains the question. Not surprisingly, the Constitution supplies the answer.

The Constitution of the United States provides no explicit mandate or permission for the

professional police or like law-enforcement agencies found throughout this country today. The *only* institutions within the federal system to which the Constitution assigns the authority and responsibility "to execute the Laws of the Union" are "the Militia of the several States"; and the *only* individual officeholder to which the Constitution assigns the authority and responsibility to "take Care that the Law be faithfully executed" is the President, to whom it also entrusts the status of "Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States". *See* U.S. Const. art. I, § 8, cls. 15 and 16; art. II, § 3; *and* art. II, § 2, cl. 1. Self-evidently, "execut[ing] the Laws of the Union" and "tak[ing] Care that the Laws be faithfully executed" involve quintessential "law-enforcement" and "police" functions. Similarly, because "the Militia of the several States" are the States' own governmental institutions, with permanent place in the federal system, and because the Constitution, through the Second Amendment, declares that *only* "[a] well regulated Militia" is "necessary to the security of a free State", "law-enforcement" or "police" functions which relate to the provision of "security" under State and Local law must devolve upon "the Militia of the several States" in each of the States, and upon each of the Governors of "the several States" in their capacities as commanders in chief of their own States' Militia. Moreover, inasmuch as each of "the Militia of the several States" must be "[a] well regulated Militia" and "[a] well regulated Militia" must be composed of the body of the people, in the final analysis the American people themselves, properly organized in "well regulated Militia", should assume primary responsibility for the performance of *all* "law-enforcement" and "police" functions. This, of course, is no constitutional accident. For in a constitutional republic *in which the people themselves exercise sovereignty* (as described below), who but the people themselves can be entrusted with the task of policing the people themselves?

So if, as the White House's post opines, "[o]ur country needs more law enforcement", the true constitutional source of the additional manpower should be the Militia. Being composed of every able-bodied adult from sixteen years of age upwards (until justly exempted on the basis of superannuation), the Militia could supply far more individuals already qualified, or capable of being trained, to perform any and every "law-enforcement" and "police" function which both the Union and the several States might require. (Actually, if the job were to be done with scrupulous attention to the Constitution, all present-day police forces and other law-enforcement agencies at the State and Local levels should be integrated within the Militia largely in their present forms, augmented by such other specially trained units and reserve formations as the circumstances in various States and Localities might warrant.) If "[o]ur country needs * * * more community engagement [in 'law enforcement']", in what more efficacious and safe manner could this goal be met than by enlisting *the whole community in each community* in the effort? No "anti-police atmosphere" could ever arise were the people themselves the police and the police the people. And if "[o]ur country needs * * * more effective policing", how could this be better guaranteed than by drawing participants in "police" functions from the most extensive pool of talent extant in any community: namely, *essentially the entire adult community itself*? Not only that: When in the form and with the authority of "well regulated Militia" the people in Local communities will police themselves, law enforcement will necessarily become more effective than it is or ever could be now, because then the people with the greatest personal incentives to maintain *proper* "law and order" will be directly in charge. No longer will the people in any Locality be subject to a police force of élitist professionals who (as is all too

often the case today) envision themselves as aloof from, superior to, and even the antagonists of the very community which they are supposed to protect and serve.

4. The White House's post assures its readers that "[s]upporting law enforcement means supporting our citizens' ability to protect themselves". On the one hand, this statement is a mere truism—because, as America's Founders well knew, "[s]elf-defence * * * , as it is justly called the primary law of nature, so it is not, neither can it be in fact, taken away by the law of society". William Blackstone, *Commentaries on the Laws of England* (Philadelphia, Pennsylvania: Robert Bell, American Edition, 4 Volumes & Appendix, 1771-1773), Volume 3, at 4. Whether performed by the individual or by the community, self-defense is the most important, being in the final analysis the indispensable, form of "law enforcement". On the other hand, unfortunately, the post's statement sets legal and political priorities in reverse, even perverse, order—because actually enabling citizens to protect themselves individually and collectively must always come before "[s]upporting law enforcement" in the form of modern-day professional police forces. After all, *self*-defense presupposes the absence of timely and effective assistance from even honest and competent law-enforcement agencies; whereas, in all too many instances today, through their execution of constitutionally questionable "gun-control" laws rogue law-enforcement personnel across this country hinder or entirely frustrate ordinary citizens' ability to execute "the primary law of nature" for their own individual and societal protection.

Self-evidently, "the security of a free State" depends upon the ability of its constituent citizens to defend both themselves as individuals and their "free State" as a collective—and the Second Amendment declares that, for these purposes, "[a] well regulated Militia" is "necessary", not subordinate to various law-enforcement establishments not only less inclusive than such a Militia but also lacking a Militia's constitutional credentials. Thus, the only way in which the statement "[s]upporting law enforcement means supporting our citizens' ability to protect themselves" can be read in a fully constitutional manner is for the Militia to become the primary institutions of "law enforcement" at every level of the federal system. This is plainly possible even at the level of the General Government, because the Constitution empowers Congress "[t]o provide for calling forth the Militia to execute the Laws of the Union", *without exception*. U.S. Const. art. I, § 8, cl. 15. And because "the Militia of the several States" are the States' own governmental institutions, the States can assign to them whatever "law-enforcement" responsibilities may be "necessary to the security of a free State" in those jurisdictions, when the Militia are not "called into the actual Service of the United States". *Compare* U.S. Const. art. II, § 2, cl. 1 and art. I, § 8, cl. 16 *with* amends. II and X.

To be sure, the White House's post goes on to promise that "[w]e [*i.e.*, the Trump Administration] will uphold Americans' Second Amendment rights at every level of our judicial system".The apparent exclusive concern with "our judicial system" is perplexing, however. Does President Trump believe that "our judicial system" wields exclusive authority under the false doctrine of "judicial supremacy" to determine with finality what "Americans' Second Amendment rights" are? Or is that the province of the Constitution, which the Legislative and Executive Branches of the General Government, the States, and ultimately WE THE PEOPLE must interpret and apply for themselves when "our judicial system" neglects, fails, or refuses to protect those rights?

Even those Americans who are satisfied with the decisions of the Supreme Court in the *Heller* and *McDonald* cases, and who assume that President Trump will succeed in appointing to the Court new Justices who will scrupulously adhere to those precedents, must realize that, because of the practical vicissitudes of litigation, many if not most rulings of consequence to be rendered by the inferior courts of the United States and the States' courts with respect to the Second Amendment will *never* be reviewed by the Supreme Court. Inasmuch as these lower courts are now overpopulated with opponents of the Second Amendment, reliance on "our judicial system" will result in numerous judicial screeds as much at odds with "the right of the people to keep and bear Arms" as Circuit Judge James A. Wynn, Jr.'s grotesquely unconstitutional concurring opinion in *United States* v. *Robinson*, No. 14-4902 (4th Cir., 23 January 2017). Under these circumstances, can President Trump—or the American people—trust "our judicial system" to guarantee "the security of a free State" as the Second Amendment understands it? Or should President Trump work to empower Americans to exercise "the right of the people to keep and bear Arms" in "well regulated Militia", impervious to modern-day "gun control"? These questions answer themselves, the first in the negative, the second in the affirmative.

5. The White House's post describes President Trump as "dedicated to enforcing our border laws, ending sanctuary cities, and stemming the tide of lawlessness associated with illegal immigration". These ends are admirable; but the means by which the President and his advisors believe that he can actually accomplish them remain as opaque as they are conjectural. I need not repeat here what I have written about these matters in my NewsWithViews commentaries "How the President Can Secure the Borders" (18 August 2015), "A Trumped-up Controversy" (20 February 2016), and "No Sanctuaries in 'Sanctuary Cities'" (3 December 2016). What does deserve renewed emphasis, though, is the indispensable *constitutional* rôle which the Militia can and must play in the fulfillment of these tasks, under President Trump's assertion of leadership as "Commander in Chief * * * of the Militia of the several States, when called into the actual Service of the United States", in order to fulfill his duty to "take Care that the Laws [pertaining to immigration] be faithfully executed". *See* U.S. Const. art. II, § 2, cl. 1 and art. II, § 3.

Not just the present tidal wave of patently illegal immigration, but also since the late 1960s the excessive extent of ostensibly legal immigration by aliens unwilling or unable to assimilate themselves within an *uniquely American* culture, amount to actual hostile *invasions* of this country. I do not employ the term "invasions" in a loosely metaphorical sense, either. For these incursions are not simply historical accidents, akin to the serial "barbarian invasions" that first splintered, then helped to shatter entirely, the Roman Empire. Rather, they are part and parcel of modern *neo-*Bolshevism's long-operative strategy to deny Americans the right vouchsafed to them by the Declaration of Independence to retain "among the powers of the earth, the separate and equal status to which the Laws of Nature and of Nature's God entitle them"; to demolish the United States as a functioning polity; and to drag "the good People" of this country into a "new world order" administered by *supra-*national *mega-*banks and *-*corporations serving the selfish interests of a globalist kleptocracy composed of *multi-*billionaires. This amounts to a new twist on Leninism/Trotskyism—because "the revolution's" contemporary financiers are so sure of themselves that they no longer feel the need to operate largely behind the scenes (in the manner of, say,

Alexander Helphand), but instead brazenly flaunt their rôles as "the revolution's" mentors and even directors out in the open, in the person of such as George Soros.

The *neo*-Bolsheviks' tactics emphasize enlarging the fissures already in existence throughout American society, and engendering as many new ones as possible, so as to be able to employ "identify politics" in service of a divide-and-conquer approach of multifaceted "class warfare". The old Leninist/Trotskyist dichotomy of "classes" has been expanded from the original purely economic Marxist categories of "the proletariat" and "the bourgeoisie" to embrace divisions delineated by race, religion, sex (or even worse, "gender"), economic status, political allegiances to such deceptive conceptions as "left" and "right", rural *versus* urban attitudes and lifestyles, and so on—until American society now finds itself on the verge of being permanently Balkanized into a chaotic jumble of squabbling sects unified only by their joint participation in an orgy of mutual antagonisms and recriminations. Already, "mainstream" political discourse accepts without demur this country's bifurcation into "blue States" and "red States" (although, to conform to the relevant historical antecedent, the colors should be reversed; and, better yet, "white" substituted for "blue"). Plainly enough, this situation by itself is incompatible—indeed, at war—with attainment of the Preamble's goals "to form a more perfect Union" and "insure domestic Tranquility".

The contemporary agitation from various quarters for "open borders" attempts to hornswoggle gullible Americans into condemning as "xenophobic", "racist", or otherwise contemptibly "discriminatory" the laws of the Union which control immigration, so as to make it politically impossible for this country to repel the invasions of aliens now assaulting it. "Hornswoggle" is the properly descriptive verb, too, because no such thing as "open borders" can exist under the Declaration of Independence. For if other nations can systematically dump their unwanted populations into the United States, or if individual foreigners in unlimited numbers can impose themselves on this country, then Americans will no longer "assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them". Neither can "open borders" exist under the Constitution. For, as the Preamble attests, WE THE PEOPLE "ordain[ed] and establish[ed] th[e] Constitution" in order to "secure the Blessings of Liberty to *ourselves* and *our* Posterity"—not to aliens whom THE PEOPLE refuse to accept into their community in the first place, or to some future posterity of those undesired aliens who succeed in insinuating themselves into the United States.

More than a century ago, the Supreme Court rejected the argument for "open borders" pressed upon it by radical attorney Clarence Darrow, that "[n]o power is delegated by the Constitution to the general government over alien friends with reference to their admission into the United States", with the rejoinder that "[r]epeated decisions of this court have determined that Congress has the power to exclude aliens from the United States; to prescribe the terms and conditions on which they may come in; to establish regulations for sending out of the country such aliens as have entered in violation of law, and to commit the enforcement of such conditions and regulations to executive officers; that the deportation of an alien who is found to be here in violation of law is not a deprivation of liberty without due process of law, and that the provisions of the Constitution securing the right of trial by jury have no application." *United States* ex rel. *Turner* v.

Williams, 194 U.S. 279, 287 (argument of counsel), 289-290 (opinion of the Court) (1904). And inasmuch as the Constitution recognizes no alleged "right" of "alien friends" to immigrate into the United States, it surely denies any such "right" to "alien *enemies*", whether openly declared as such, or clandestine in their purposes, or merely potentially dangerous because of their beliefs or associations.

The Bill of Rights provides no exceptions to this rule. At issue in *Kleindienst* v. *Mandel*, 408 U.S. 753 (1972), was a statute which declared ineligible to obtain admission into the United States aliens who advocated the "doctrines of world communism or the establishment in the United States of a totalitarian dictatorship". Mandel, a self-described "revolutionary Marxist" who openly espoused "the economic, governmental, and international doctrines of world communism", was denied a visa to participate in lectures and conferences sponsored by various American universities and think-tanks. Joined by several American "university professors * * * who [had] invited [him] to speak", Mandel brought suit on the grounds that denial of his visa violated the complainants' rights under the First Amendment, denied them the equal protection of the laws, and deprived them of procedural due process. *Id.* at 754-760. The Supreme Court overruled these contentions:

> It is clear that Mandel personally, as an unadmitted and nonresident alien, had no constitutional right of entry to this country as a nonimmigrant or otherwise. United States ex rel. Turner v. Williams, 194 U.S. 279, 292 (1904). * * *
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> This case, therefore, comes down to the narrow issue whether the First Amendment confers upon the * * * professors, because they wish to hear, speak, and debate with Mandel in person, the ability to determine that Mandel should be permitted to enter the country, or, in other words, to compel * * * Mandel's admission.
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> Recognition that First Amendment rights are implicated, however, is not dispositive of our inquiry here. * * * The Court without exception has sustained Congress' "plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden." * * * "[O]ver no conceivable subject is the legislative power of Congress more complete than it is over" the admission of aliens.
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> We are not inclined in the present context to reconsider this line of cases. Indeed, the [complainants] * * * recognize the force of these many precedents. * * * [T]hey concede that Congress could enact a blanket prohibition against all aliens falling into the class defined by [the statute], and that First Amendment rights could not override that decision. * * * But they contend that by providing a waiver procedure, Congress clearly intended that persons ineligible under the broad provision of the [statute] would be temporarily admitted * * * . They argue that the Executive's implementation of this congressional mandate * * * must be limited by the First Amendment rights of persons like [the complainants]. * * *

> [The complainants'] First Amendment argument would prove too much. In almost every instance of an alien excludable under [the statute], there are probably those who would wish to meet and speak with him. * * * Were we to endorse the proposition that governmental power to withhold a waiver must yield whenever a bona fide claim is made that American citizens wish to meet and talk with an alien excludable under [the statute], one of two unsatisfactory results would necessarily ensue. Either every claim would prevail, in which case the plenary discretionary authority Congress granted to the Executive becomes a nullity, or courts in each case would be required to weigh the strength of the audience's interest against that of the Government in refusing a waiver * * * , according to some as yet undetermined standard. * * * Indeed, it is precisely for this reason that the waiver decision has, properly, been placed in the hands of the Executive.
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> In summary, plenary congressional power to make policies and rules for exclusion of aliens has long been firmly established. In the case of an alien excludable under [the statute], Congress has delegated conditional exercise of this power to the Executive. We hold that when the Executive exercises this power negatively on the basis of a facially legitimate and bona fide reason, the courts will neither look behind the exercise of that discretion, nor test it by balancing its justification against the First Amendment interests of those who seek personal communication with the applicant.

Id. at 762, 765-766, and 767-770.

It should be obvious that, if this reasoning is valid with respect to "the freedom of speech" guaranteed by the First Amendment, then it applies with equal force to all of the other rights that Amendment covers—such that exclusion of aliens on the basis of their religion, or of the predominant religion of their countries of origin, or of the observation that many of them misbehave under color of their religion in countries which incautiously admit them as immigrants, is no less valid. As the Court observed in *United States* ex rel. *Turner* v. *Williams*, 194 U.S. 279, 292 (1904),

> [i]t is, of course, true that if an alien is not permitted to enter this country, or, having entered contrary to law, is expelled, he is in fact cut off from worshiping or speaking or publishing or petitioning in the country, but that is merely because of his exclusion therefrom. He does not become one of the people to whom these things are secured by our Constitution by an attempt to enter forbidden by law. To appeal to the Constitution is to concede that this is a land governed by that supreme law, and as under it the power to exclude has been determined to exist, those who are excluded cannot assert the rights in general obtaining in a land to which they do not belong as citizens or otherwise.

Therefore, "[t]he Bill of Rights is a futile authority for the alien seeking admission for the first time to these shores". *Kwong Hai Chew* v. *Colding*, 344 U.S. 590, 596 note 5 (1953). As the Court explained in *United States* v. *Verdugo-Urquidez,* 494 U.S. 259, 265 (1990),

> [t]he Preamble [to the Constitution] declares that the Constitution is ordained and established by "the people of the United States." The Second Amendment protects "the right of the people to keep and bear Arms," and the Ninth and Tenth Amendments provide that certain rights and powers are retained and reserved to "the people." * * * While this textual exegesis is by no means conclusive, it suggests that "the people" * * * refers to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of the community.

Pace the Court, however, "this textual exegesis" is certainly far more than merely "suggest[ive]". For no one could possibly believe that aliens may demand entry into this country while exercising a purported "right" under color of the Second Amendment "to keep and bear Arms" in their hands, or (more specifically) that armed Moslem *jihadists* intent upon imposing *Sharia* by means of the "'[p]olitical power [which] grows out of the barrel of a gun'" may demand entry under color of the Second and Tenth Amendments combined. *Compare* Mao Tse-tung, *Quotations from Chairman Mao Tse-tung* (Peking, China: Foreign Languages Press, 1966) at 61, *with* Arthur L. Corbin, "Legal Analysis and Terminology", 29 *Yale Law Journal* 163 (1919), at 168-169 (definition of a legal "power").

Going further, the Court in *Verdugo-Urquidez* pointed out that previous cases which have applied principles of equal protection and due process to aliens "establish only that aliens receive constitutional protections when they have come within the territory of the United States and developed substantial connections with this country." 494 U.S. at 271. "'In the exercise of its broad power over naturalization and immigration, Congress regularly makes rules which would be unacceptable if applied to citizens'". *Id.* at 273, *quoting Mathews* v. *Diaz,* 426 U.S. 67, 79-80 (1976).

In the light of these precedents, the recent decision in *Washington* v. *Trump*, No. 17-35105 (9th Cir., 9 February 2017), purporting to uphold a temporary stay of President Trump's recent Executive Order on immigration, is (to borrow Bentham's deprecatory phrase) "nonsense on stilts". Yet in the latter decision this country witnesses what the White House's post calls "our judicial system" being intentionally misused by "useful idiots" within the political hierarchies of the States of Washington and Minnesota in order to frustrate the constitutional authority of Congress and the Executive! How should President Trump respond? Recently, the noted journalist and author Seth Lipsky asked me whether Article IV, Section 4 of the Constitution applies to this problem; so I shall take that provision as an example of what President Trump and his legal advisors should consider—

The Constitution commands that "[t]he United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion". Art. IV, § 4. Which implies, of course, that no State can claim a license either (i) to set aside her own "Republican Form of Government" or expose her own citizens to an "Invasion", or (ii) to obstruct the United States in their execution of their constitutional power *and duty* to "guarantee * * * a Republican Form of Government" within that State's territory and "protect" that State's citizens "against Invasion" *by whatever means may be available to the General Government. And without any*

necessity for any State subject to an "Invasion" to agree to the United States' exercise of their constitutional duty to deal with that affliction—for, unlike the second clause of Article IV, Section 4, which requires an "Application of the Legislature [of a State], or of the Executive (when the Legislature cannot be convened)", before the United States may "protect" a State "against domestic Violence", the first clause imposes no such restriction.

Now, even were contemporary *neo*-Bolsheviks, other subversives of various persuasions, and assorted "useful idiots" not working tirelessly to promote irreconcilable social divisions through "Invasion[s]" of aliens indisposed to assimilate (or, worse yet, predisposed *not* to assimilate) to traditional American culture, such immigration would inevitably destroy "a Republican Form of Government" in each of the several States. What the Constitution describes as "a Republican Form of Government" is "one constructed on th[e] principle, that the Supreme Power resides in the body of the people". *Compare* U.S. Const. art. IV, § 4 *with Chisholm* v. *Georgia*, 2 U.S. (2 Dallas) 419, 457 (1793) (opinion of Wilson, J.). If, however, the United States no longer consist of *one* "people", *substantially united in political understanding and purpose*, maintenance of "a Republican Form of Government" in any of the several States is impossible. Inasmuch as, whether by conscious design or merely by its unintended consequence, unlimited immigration precludes such unity, it fatally threatens "a Republican Form of Government" in every State. Which (among other reasons) is why the Constitution provides that "[t]he Migration or Importation of such Persons as any of the States now existing [*i.e.,* as of 1788] shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight"—thereby recognizing the plenary power of Congress to "prohibit[ ]" *any and all* such "Migration or Importation" in those States after that date, and in all other States at any time. U.S. Const. art. I, § 9, cl. 1. And that is why (among other reasons) the Constitution delegates to Congress the allied powers "[t]o establish an uniform Rule of Naturalization" (as to "Migration"), "[t]o regulate Commerce with foreign Nations * * * and with the Indian Tribes" (as to "Importation"), "[t]o provide for calling forth the Militia to execute the Laws of the Union * * * and repel Invasions", and "[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers". U.S. Const. art. I, § 8, cls. 4, 3, 15, and 18. For through the exercise of these powers by Congress and the execution by the President of the statutes Congress enacts pursuant to them, "[t]he United States" can "guarantee to every State in this Union a Republican Form of Government" by "protect[ing] each of them against Invasion" by aliens.

Moreover, the Second Amendment refers to "the security of a free State", as to which it declares that "[a] well regulated Militia" is "necessary". The term "a free State" is a general conception, to which (in the estimation of the Founders) all of "the several States" conformed at the time (1791) and were expected always to conform thereafter (along with such other States as later entered the Union). The term "free State" is perhaps best understood by consideration of the German noun "*Freistaat*" (literally, "free state"), the primary meaning of which is "republic", with the adjectival form, "*freistaatlich*", meaning "republican". Thus, the term "a free State" in the Second Amendment should be equated with the term "a Republican Form of Government" in the original Constitution, such that "a free State" denotes a polity "constructed on th[e] principle, that the Supreme Power resides in the body of the people". And, plainly enough, no "free State"can enjoy

"security" when it is exposed to incessant "Invasion[s]" by aliens. So, just as "[a] well regulated Militia" is "necessary to the security of a free State", such a Militia is necessary to the security of a "Republican Form of Government" free from the fear, let alone the actuality, of "Invasion". This should be obvious, because the essence of both "a free State" and "a Republican Form of Government" is that "the Supreme Power resides in *the body of the people*", and "a well regulated militia[is] composed of *the body of the people*". *See* Virginia Declaration of Rights (1776) art. 13 (emphases supplied). In particular, then, by executing "the Laws of the Union" so as to "repel Invasions" of illegal aliens when other components of the Constitution's federal system prove themselves inadequate or even inimical to that task, the Militia can guarantee (as can no other institutions) that "the Supreme Power [always] resides in the body of the [American] people" who themselves make up the Militia, rather than being gradually usurped by foreign interlopers with no conceivable claim to any portion of that "Power". *See* U.S. Const. art. I, § 8, cl. 15.

Inasmuch as issues arising under Article IV, Section 4 typically involve "political questions" as to which the Judiciary is constitutionally incompetent to afford relief to parties challenging the actions of Congress and the Executive, President Trump can—and should—simply disregard aberrant decisions such as *Washington* v. *Trump* (while, of course, providing the public with a complete explanation for his actions). *See, e.g., Luther* v. *Borden,* 48 U.S. (7 Howard) 1 (1849). And both he and Congress enjoy other, even more potent means to deal with rogue judges. *See, e.g.,* my book *How To Dethrone the Imperial Judiciary* (San Antonio, Texas: Vision Forum Ministries, 2004). Whether the President's legal advisors will properly instruct him—and steady his nerves—on these matters remains uncertain, though.

6. The White House's post concludes with the truism that "[i]t is the first duty of government to keep the innocent safe", and emphasizes the application of this duty to "especially those Americans who have not known safe neighborhoods for a very long time". This is all well and good, as far as it goes. Yet it does not go nearly far enough. For the most serious threat to the safety of "the good People" throughout this country is not simply everyday "street crime" (as bad as that may be), but instead the crescent *neo-*Bolshevist "color revolution" for which the streets constitute merely one theater of operations.

The architects of America's emergent "color revolution" have honed their theory of "régime change" to a razor's edge, and tested it in various places around the world with some notable success. Throughout this country its practitioners in the *Rotenfrontkämpferbund* are numerous, well organized, adequately funded, and fanatic (if not lunatic) in their willingness to apply whatever measures of rhetorical and even physical violence they deem expedient to smash all opposition to their demands. The big "mainstream media", choruses of puffed-up political pundits, and gaggles of goofy "celebrities" apologize for, encourage, and even glamorize these tactics. And rogue public officials at every level of the federal system openly lend their support to the revolutionaries. The goal of this "color revolution" is to render America effectively ungovernable during President Trump's tenure, by impugning the legitimacy of any and every law, governmental policy, and action of his Administration that contradicts a single jot or tittle of the *neo-*Bolsheviks' agenda—enforcing these incessant complaints with massive orchestrated disruptions of the political, legal, and social order,

thereby creating *a new order based upon chaos*, on the strength of which the *neo-*Bolsheviks hope to usurp the power of "a state within the state", with President Trump reduced to an impotent, ridiculous "bubblehead".

At first glance, "the color revolution's" reliance on strong-arm tactics appears to impale this country on the horns of a dilemma (which, no doubt, is the *neo-*Bolsheviks' intention). On the one hand, "the good People" cannot be left to the mercy of *neo-*Bolshevist thugs, unable to protect themselves unless they turn to the kind of *ad hoc* self-help that smacks of vigilantism—for that will reduce this country to an ungovernable condition, inasmuch as "order" imposed without "law" (other than "the law of the jungle") is not "government" at all. Yet, on the other hand, true constitutionalists must stand firm against the all-too-natural inclination of ordinary citizens assaulted by massive social unrest to "tighten the screws" by employing police-state tactics up to and including "martial law"—for that will render this country ungovernable, too, inasmuch as "martial law" is not a form of government permissible under the Declaration of Independence and the Constitution. The only sure and certain way to avoid both of these mutually undesirable alternatives is to revitalize the Militia, thereby returning to "the good People" the ability, *together with the absolute legal authority*, to protect themselves. *See* my book *By Tyranny Out of Necessity: The Bastardy of "Martial Law"* (Ashland, Ohio: Bookmasters, Inc., Revised & Expanded Second Edition, 2014, 2016), especially at 531-676.

After all, as America's sovereigns WE THE PEOPLE *are* "the government"—both as its source and as its ultimate executors, as well as its beneficiaries. Public officials can do nothing—at least legitimately—without THE PEOPLE'S approval and coöperation, both passive *and active*. So if (as the White House's post opines) "keep[ing] the innocent safe" is "the first duty of government", then it is the first duty of THE PEOPLE themselves—who, having the greatest incentive to remain safe, will surely be most assiduous in fulfilling it. And because "keep[ing] the innocent safe" is obviously a defining characteristic of what the Second Amendment calls "the security of a free State", then the revitalization of "well regulated Militia"—composed of THE PEOPLE themselves—is "necessary" to that end.

7. President Trump must also take into account that the *open neo-*Bolshevist "color revolution" is not the only, or even the most dangerous, subversive force deployed against his Administration, as well as against himself personally. He must also reckon with what students of these matters denote as "the Deep State"—namely, the clandestine rogue apparatus lodged within the bowels of the "military-industrial" and especially the "national-security" complexes, which considers itself the *real* "state within the state", ruling over this country as a law unto itself alone. *See, e.g.,* Paul Craig Roberts, "The Trump Presidency: RIP", Paul Craig Roberts Institute for Political Economy (16 February 2017); *and* my commentary "An Ominous Start" (1 January 2017) at <edwinvieira.com>, pages 6-7.

In the long run, it does not much matter whether the Deep State is proceeding independently along the same lines as the *neo-*Bolsheviks, or whether it is loosely allied with them, or whether it is a full partner in their operations, or even whether it is actually in control of the whole shebang—for

the immediate goal of both the Deep State and the *neo-*Bolsheviks is the same: to wit, the utter destruction both of the Trump Administration and of Mr. Trump himself, with their ultimate purpose being the defeat of WE THE PEOPLE'S reassertion of constitutional authority over this country. (Although, as Mark Twain quipped, history does not repeat itself, it often rhymes, the closest historical couplet in this case being, of course, the tacit alliance between the "left-fascist" Stalin and the "right-fascist" Hitler, through which the German Communist *Rotenfrontkämpferbund* effectively colluded with its supposed opponent, the Nazi *Sturmabteilung,* to overthrow the social-democratic Weimar Republic and set the stage for the Second World War. *See, e.g.,* Viktor Suvorov, *The Chief Culprit: Stalin's Grand Design to Start World War II* [Annapolis, Maryland: Naval Institute Press, 2013]).

Whatever the relationship between the fascistic "right" of the Deep State and the equally fascistic "left" of American *neo-*Bolshevism may be, the Deep State has already revealed its own hand, in spades, in the recent "Flynn-flammery" it has apparently imposed on President Trump. *See, e.g.,* Richard Pollock, "EXCLUSIVE: How The Nation's Spooks Played The Game 'Kill Mike Flynn'", *The Daily Caller* (15 February 2017); Jay Syrmopoulos, "Open Warfare Declared In DC As Deep State 'Goes Nuclear'–Trump 'Will Die In Jail'", *The Freethoughtproject* (15 February 2017); Pepe Escobar, "The Swamp Strikes Back", *Offguardian* (16 February 2017); *and* Joachim Hagopian, "Reasons Why Michael Flynn Was Fatality #1 in the Trump Presidency", *LewRockwell.com* (17 February 2017).[1] The *only* adequate response to *this* dire threat is for President Trump to bring to bear against the Deep State the full power of *constitutional* "law enforcement", and sweep all of the renegades out of the "military-industrial" and "national-security" complexes with an iron broom. *Compare* 18 U.S.C. §§ 2383 through 2385 (the emergent problem) *with* 10 U.S.C. §§ 252 and 253 (a necessary part of the solution).

8. In the final analysis, if the Trump Administration intends to "stand[ ] up for our law enforcement community" *in the fullest constitutional sense of that promise*, it must first recognize of whom "our law enforcement community" actually consists—namely, WE THE PEOPLE themselves—and then realize that "standing up" for *that* "community" demands the revitalization of those constitutional institutions in which WE THE PEOPLE personally participate, *to the point of exercising actual day-to-day decision and direction*. If President Trump does nothing else during his tenure in office, he must leave America with the permanent legacy of "well regulated Militia" in every one of the several States, able to "execute the Laws of the Union" in "the actual Service of the United States" against *all* enemies, whether foreign interlopers or (especially) domestic subversives. And he must begin to do so *immediately*. For his—and America's—enemies will not afford him the luxury of being able to "play for time". *Today* is his time. Tomorrow will be too late. Procrastination was apparently President Kennedy's undoing. *See, e.g., JFK and the Unspeakable. Why He Died and Why It Matters* (Maryknoll, New York: Orbis Books, 2008; reprinted, New York, New York: Touchstone, 2010). President Trump would be well advised to take that lesson to heart.

1. Some supporters of President Trump have floated the alternative explanation that Flynn's resignation was actually part of the normal course of events within the Administration. *See* "Dr. Steve Pieczenik Says Michael Flynn Was Purposefully Removed, The Left Are Intellectual Frustrated Children", *iBankCoin* (16 February 2017). This thesis is exceedingly difficult to credit, however. For it would have been both unnecessary and highly counterproductive for the Administration to subscribe to a narrative based on Flynn's telephonic indiscretion and later dishonesty in describing his behavior, together with allegations of "leaks" by person or persons unknown inside but hostile to the Administration, when a simple press-release stating that Flynn had resigned to make way for a better-qualified replacement would have sufficed—without providing the big "mainstream media" with additional ammunition for their on-going barrage that President Trump is a crony, a stooge, a dupe, or otherwise an "asset" of Russian President Vladimir Putin.