

Legal Audacity Is The Answer To Political Aggression

Since his inauguration, President Trump has assumed an all-too-reactive and -defensive posture *vis-à-vis* his political enemies. He seems quite unable to foresee, let alone to forestall, fend, or even fashion an adequate response to his opponents' next moves, no matter how pellucidly predictable they may be. Rather, he suffers his antagonists to strike at will, whenever and wherever an opportunity to make mischief presents itself. For example—

- They float knowingly false “leaks”, defamatory stories, and innuendoes in the big “mainstream media”, not simply to ridicule and embarrass him personally (along with members of his Administration and even his immediate family), but also (and of greater consequence) to undermine his prestige and standing as President amongst the American people.
- They file frivolous lawsuits aimed at providing rogue judges with legalistic rationalizations to deny, defeat, frustrate, and impede the exercise of his undoubted statutory (and as the agent of Congress, constitutional) Presidential powers, while he meekly acquiesces in the courts' assertion of “judicial supremacy”.
- They impugn both him and his Administration with spurious scandals, tying up the Office of President in interminable “investigations”, in comparison with which the Salem witch-trials appear as models of rational deportment and due process.
- They charge him personally, as well as leading members of his Administration, with specious violations of plainly inapplicable criminal laws.
- They agitate for his removal from the Office of President through “Impeachment for, and Conviction of, *

* * high Crimes and Misdemeanors" under Article II, Section 4 of the Constitution, or on the grounds that he is otherwise "unable to discharge the powers and duties of his office" under Section 4 of the Twenty-fifth Amendment.

- In various public fora they openly threaten him with assassination, and contend that his homicidal elimination—and that of other officeholders who take his part—would be justified. And
- They unleash fanatical "*anti-fascists*" and other maniacal thugs from the *neo-Bolshevist Rotenfrontkämpferbund* verbally to harass and even physically to assault his supporters in the streets and on college campuses.

All of this is obviously intended to instill in Mr. Trump confusion, uncertainty, indecision, self-doubt, and pessimism sufficient to dissuade and disable him from effectively exercising the authority of the Office of President with which the Constitution and other laws of the United States invest him.

These goings-on have been so concatenated, coördinated, and concerted in character as to indicate the operation of a common plan. And this plan is plain enough. Mr. Trump's enemies are not engaged simply in an extreme version of "monkey business as usual" in the District of Columbia's political zoo. Neither are they primarily concerned with figuratively handing Mr. Trump his Presidential head on a platter, as a warning to other potential interlopers who might presume to trespass on the territory the "good old boy" hierarchs of the Democratic and Republican parties have long reserved unto themselves. Nor is their chief purpose to destroy Mr. Trump as an individual (although they apparently do detest him). Rather, their target is *the Office of President itself insofar as anyone elected to that position might dare to exercise its powers in the interest of the*

Deplorables and other patriotic Americans. By intimidating Mr. Trump into reneging upon the plans for reform which he has promised Americans, and into becoming its compliant puppet or political eunuch (if he cannot be eliminated in some other way), the Deep State is perfecting “the small solution” for serial “régime change” in this country—the specific operation of “Presidential emasculation”, as opposed to a seditious overthrow of the General Government as a whole—which can be applied to each and every future President who sides with the Deplorables against the Deep State. The point is to demonstrate to the Deplorables that, even if somehow against all odds they can succeed in putting their own man into the Office of President, they still cannot prevail. Ever.

In response to this political aggression, to date Mr. Trump seems strangely satisfied with publishing “tweets”, as if he were merely the victim of some college fraternity’s juvenile hazing, to which he imagined that what he considered to be snappy verbal comebacks in the most juvenile of the Internet’s juvenile fora could provide sufficient answers. Although this may be a method for him to “go over the head” of “the mainstream media” by addressing the American people directly, it will hardly prove to be effective, even if Mr. Trump pillories the Deep State in no uncertain terms, because mere harsh phrases bounce off the Deep State’s case-hardened carapace as readily as cold water flows off a duck’s oily back. No, indeed—if he intends to break the Deep State’s bones before it breaks his own neck, Mr. Trump must employ sticks and stones, not just words. So, as always, the question becomes, “Now what?”

A set of acts so concatenated, coördinated, and concerted in character as to indicate the operation of a common plan aimed at an illegal goal through the use of illegal (and, in some cases, even legal) means is properly termed a *conspiracy*, and the perpetrators are properly denoted *conspirators*. This is not “conspiracy theory”, but *conspiracy law* (or the law of

conspiracy). The political aggression against President Trump has been so notorious that the various “law-enforcement” and “intelligence” agencies of the General Government—with their vaunted methods of surveillance, infiltration, computerized analysis of data, and so on—should be able to identify not only the illegal means being employed but also the primary malefactors employing them, including both the miscreants brazenly operating in the open and (of far greater consequence) the instigators, financiers, and other string-pullers manipulating events from behind the scenes. (If not, Mr. Trump can invoke for that purpose the sweeping powers statutorily delegated to him under 10 U.S.C. §§ 252 and 253.) Moreover, one need not hire a \$1,000-an-hour big-city attorney to find at least one statute which applies in this situation.

Title 18 of the United States Code, Section 241 provides in pertinent part that

[i]f two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States * * *

[t]hey shall be fined * * * or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section * * * , they shall be fined * * * or imprisoned * * * for any term of years or for life, or both, or may be sentenced to death.

Observe that this statute protects “*any person* * * * in the free exercise or enjoyment of *any* right or privilege secured to him by the Constitution or laws of the United States” *in any respect*. Moreover, for it to come into play, no actual deprivation of “any [such] right or privilege secured” need have occurred. A conspiracy aimed at any such deprivation, together with the commission of some overt act in furtherance thereof, suffices. As well it should: “For two or more to

confederate and combine together to commit or cause to be committed a breach of the criminal laws, is an offense of the gravest character, sometimes quite outweighing, in injury to the public, the mere commission of the contemplated crime. It involves deliberate plotting to subvert the laws, educating and preparing the conspirators for further and habitual criminal practices. And it is characterized by secrecy, rendering it difficult of detection, requiring more time for its discovery, and adding to the importance of punishing it when discovered." *United States v. Rabinowich*, 238 U.S. 78, 88 (1915).

As to deprivations of certain rights or privileges, private parties can be charged even without the involvement of rogue public officials in their wrongdoing, *See United States v. Guest*, 383 U.S. 745, 757-760 (opinion of the Court), 775-784 (opinion of Brennan, J.) (1966). But private individuals are certainly liable as to deprivations of any and all such rights or privileges when they collude with such officials. *United States v. Price*, 383 U.S. 787, 794, 795, 798 (1966). And in this case rightly so: For various puppet masters and their mouthpieces in private station are doubtlessly as much instigators, initiators, promoters, and planners of, and otherwise accessories to, the attacks against President Trump as are their co-conspirators among rogue officials and employees in the Deep State's governmental apparatus. So, inasmuch as rogue public officials "participate[] in every phase of the * * * venture", and "[i]t [i]s a joint activity, from start to finish", "[t]hose [private parties] who t[ake] advantage of the foul purpose must suffer the consequences of that participation", even to the extent of being punished as principals. *Compare id.* at 795 with 18 U.S.C. § 2.

Now apply 18 U.S.C. § 241 specifically to the President:

If two or more persons conspire to injure, oppress, threaten, or intimidate [Mr. Trump] in any State, Territory, Commonwealth, Possession, or District in the free exercise or

enjoyment of any right or privilege secured to him by the Constitution or laws of the United States [*specifically in his capacity as the President of the United States*] * * *

[t]hey shall be fined * * * or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section * * * , they shall be fined * * * or imprisoned * * * for any term of years or for life, or both, or may be sentenced to death.

(Inclusion of the part of this statute referring to the death penalty is not an exercise in hyperbole, either. For example, was Mr. Seth Rich's murder one of the "results from the acts committed in violation of this section"? Only a *thoroughgoing and uncompromising* criminal investigation—not a Vince Fosteresque whitewashing of the case—can determine what the facts, and who the culprits, really are.)

As President, Mr. Trump is entitled to numerous "right[s] or privilege[s] secured to him by the Constitution or laws of the United States" in relation to that office. And "two or more persons" are now engaged in a complex of acts incontestably intended "to injure, oppress, threaten, or intimidate [him] in any State, Territory, Commonwealth, Possession, or District in [his] free exercise or enjoyment of [those very] right[s] or privilege[s]". Indeed, those "persons" are bending their every evil effort in every "State, Territory, Commonwealth, Possession, or District", not only to nullify or frustrate Mr. Trump's exercise of "the executive Power" vested in him by the Constitution, but even to deprive him altogether of the right to "hold his Office during the Term of four Years" to which he has been elected pursuant to the Constitution. See U.S. Const. art. II, § 1, cl. 1. Therefore, Mr. Trump could enforce 18 U.S.C. § 241 against those individuals right now—and, *besides having a personal interest in the matter, is bound in legal duty to do so*. See U.S. Const. art. II, § 3 and, e.g., 18 U.S.C. §§ 3 and 4.

One must wonder, then, why Mr. Trump has refrained from invoking that statute. If the present author—a simple resident of “the Canoe Capital of Virginia”—can figure it out, why have Mr. Trump’s high-profile lawyers not so advised him? Or, if they have, for what is he waiting? Why does he foolishly persist in fighting this battle on his enemies’ terms, on the ground they have chosen, with the worst of them sheltered from legal retaliation in some sort of political sanctuary, when the indictment of a few—or, better yet, a few dozen—of the conspirators would transform the situation radically in his, and the Deplorables’, favor?

The answer is not to be found in some quirk of legal procedure. No “independent counsel” need be installed to enforce 18 U.S.C. § 241. The Department of Justice already employs numerous ordinary prosecutors presumably fit for that purpose. And if none can be found there after all, Mr. Trump can invoke 10 U.S.C. §§ 252 and 253 in order to enlist the experienced and reliable people he needs.

So what is wanting? Apparently, only *l’audace, encore l’audace, toujours l’audace*.

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