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There is an honorable way to dissent from the President's directives and a dishonorable way. The former Acting Attorney General, Sally Yates, chose the dishonorable way. In addition, she professed an erroneous legal opinion as the basis for her action.

On January 30, President Donald Trump fired Acting Attorney General Yates after she publicly and loudly condemned his Executive Order on immigration, explained that she would not defend the order in Court, and invited other Justice Department attorneys to follow her example.

There is another way to handle dissent from the President when you are in the employ of the Executive Branch. That way involves honor. It is the route pursued by former Attorney General Elliot Richardson and Deputy Attorney General William French Smith on October 20, 1973, when then President Richard Nixon ordered Attorney General Richardson and then Deputy Attorney General Smith to fire the Watergate Special Prosecutor Archibald Cox. Nixon acted to keep from disclosure evidence that he had engaged in a cover-up of the Watergate break-in. Faced with a directive from the President that Richardson and Smith could not in good conscience and law follow, they resigned one after the other.

Were Yates possessed of comparable honor, she would have voiced her dissent in private to the President and then offered her resignation. Instead, she chose to become a political opponent of the President and attempt a revolt within the Justice Department to the President's immigration Executive Order. That is reprehensible for an officer of the law. Her proper resort was to resign, not hold her position and subvert the will of the President.

The comparison with Watergate falls apart when the focus turns to the merits of the two situations. Watergate was at root a petty burglary for political ends. It was outrageous, to be sure, because it involved illegal conduct authorized by the President's men and operatives hired by them with campaign funds and because it involved a cover-up of illegality by the President himself, which could well – in its manifestations of obstruction of justice and subornation of perjury – fall within the impeachable “high crimes and misdemeanors” of Article II, Section 4 of the Constitution. But Nixon resigned before he could be tried, and President Ford famously pardoned him.

President Trump's Executive Order on immigration is, however, far from an unprecedented or illegal act. Since at least the Alien Act of 1798, the President of the United States has imposed country specific bans on immigration and has compelled the deportation of foreign citizens. Indeed, use of country specific immigration bans to protect national security is far more common than the howls of protests from the Left would lead you to believe.

The plenary powers of the President in field of foreign affairs under Article II are well recognized. As part of his authority as Commander-in-Chief, the President may identify countries of the world containing individuals who pose a threat to the lives, liberties, and properties of Americans. He can then use a ban on immigration and on imports from those countries as a means to protect American interests.

In the present case, President Trump determined (based on civil and military intelligence obtained by the prior Administration) that citizens of seven countries could not be adequately vetted to determine whether they were, or were aligned with, those who are intent on killing Americans. He found that information hopelessly deficient in the case of Syria and, so, instituted a permanent ban on emigration from that country. He found six others to warrant a 90 day ban on

emigration to the United States, including Iraq, Iran, Libya, Somalia, Sudan, and Yemen.

Given the amount of radical Islamic terrorist activity arising in and exported from those countries, the decision was prudent. The duration of the ban provides a short window within which the Administration can improve the vetting of citizens from those countries. In short, the action was reasonable given the circumstances.

Undoubtedly exceptions arise (as in the case of those citizens of the restricted countries who are dedicated servants of the American military and intelligence services) and, so, there will need to be case by case exceptions. It is as to these exceptions, which are on the periphery of the Executive Order, that the order, like all orders of this kind, requires case by case evaluation.

But the need for tinkering at the edges through careful vetting to see if individual exceptions are warranted does not diminish the overall national security importance of the measure or in any way diminish the necessity of taking broad protective measures to guard against radical Islamic terrorists reaching the United States.

Former Attorney General Yates' response, like that of Senator Charles Schumer and Congresswoman Nancy Pelosi, is one of over-reaction, entailing both misrepresentation of the order and exaggeration of its nature and effects. That overreaction is grossly irresponsible because it invites elimination of an Executive Order that provides protection for the American people. To his great credit, President Trump shows not the slightest interest in altering the order to accommodate the loud complaints from his Democratic opponents or from disconcerted Republicans.

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