

Trumpism: Beware, This is Not Over **By William Leiss (7 January 2021)**

“As you know, every single state, we won every state.
We won every statehouse in the country.”
President Donald Trump, White House
Conference Call, 2 January 2021

“While this represents the end of the greatest first term
in presidential history, it’s only the beginning
of our fight to Make America Great Again.”
President Donald Trump, White House
Statement, 7 January 2021

“We are not Germany in 1933. But we may be Munich, 1923.
On 8 November of that year, a couple of thousand Nazis
staged a failed putsch to topple the Weimar Republic.
Ten years later the same insurrectionists
seized power in Germany— through electoral means.”
Lawrence Douglas, Amherst College,
The Guardian, 7 January 2021

Synopsis:

There is good reason to believe that the statements and actions of President Trump and the Republican Party, before and after the election on 3 November 2020, will cause lasting damage to American democracy. Almost certainly, further damage will be inflicted between now and the 2024 election, which may turn out to be the last “free and fair” presidential election in the United States of America for some time to come. If this outcome is to be avoided, efforts to forestall it must begin now and not let up.

The joint session of Congress, opened on 6 January 2021, meeting under the terms of Article II and Amendment 12 of the U. S. Constitution, and the Electoral Count Act of 1887, received the state documents certifying the results of the election held on 3 November 2020. During the opening hours of that session, a mob incited by the President of the United States invaded the Capitol Building, sending members of Congress into hiding.

When it was over, ending at 4am on the following day, 147 legally-elected members of the Senate and the House of Representatives voted in favor of one or more motions challenging the certificates for the states of Arizona and Pennsylvania—and seeking to do the same for the states of Georgia, Michigan, and Nevada—where, it was alleged, there

were “disputed” election results. (The final vote counts were 282-138 in the House and 92-7 in the Senate.) At the conclusion of that session, its chairperson, sitting Vice-President Mike Pence, confirmed Joe Biden as the new President and Kamala Harris as the new Vice-President.

Let us be clear as to the meaning of these votes. About two-thirds of the Republican members of the House, and one-quarter of the combined membership of the two chambers of Congress, voted in favor of a step that has never been undertaken in the history of the United States of America since at least 1887 – namely, to suspend or annul the democratic order of this country. *They voted, in effect, to replace American democracy with a dictatorship under the rule of Donald J. Trump.* They did so *just after* a shocking display of mob violence directed at them and their colleagues. Ruth Ben-Ghiat writes: “Today’s [authoritarian] leaders come in through elections and then manipulate elections to stay in office —until they get enough power to force the hand of legislative bodies to keep them there indefinitely...”

President Trump had predicted, well before the election of November 3, that the only way he could lose would be if it were rigged or fraudulent. In other words, he took his continuation in office to be a matter of right, which is what every sitting dictator does. He then claimed that he won a majority of votes in every single state in the Union on the third of November 2020 and that all contradictory results resulted from massive fraud. This claim was either so delusional as to raise serious questions about his fitness for office, or (assuming he well knew the monumental falsity of it) it was a deeply manipulative and cynical expression of his contempt for the followers he expected to swallow it whole.

About a month earlier, the President of Belarus, Alexander Lukashenko, announced that he had won re-election by securing over 80% of the votes cast; very few of that nation’s citizens believe this result, however, although their protests against it have so far been fruitless. But what if one or two quite small changes in the outcome of the 2020 U. S. election had occurred?

Joe Biden received in excess of 7 million more votes than did Donald Trump. The margin in the Electoral College (EC) was 306–232, exactly the same as the winner’s margin in 2016. As is well known, the EC margin in Trump’s favor in 2016 was produced by about 78,000 popular votes in the states of Michigan, Pennsylvania, and Wisconsin. But what is less well known is that fact that the EC margin in 2020 was even smaller – about 43,000 votes in the states of Arizona, Georgia, and Wisconsin combined! Had this exceedingly small margin been legitimately overcome by Trump in those three states, as is easy to imagine, the EC outcome would have been a 269–269 tie. In such a case, the election outcome is determined in the House of Representatives, in a vote where each state has one vote, at a time when 26 states were governed by Republicans.

Thus a very small change in the popular vote (less than a miniscule 0.3%), as filtered through the Electoral College results, could have given Trump re-election as president. But consider another scenario altogether. In November 2020, Republicans did very well in the election for the House of Representatives, cutting the current Democratic majority in half. Thus it is also easy to imagine that a majority in both the House and the Senate could have been in Republican hands on 6 January 2021. Is it inconceivable to think that, in such a case, both chambers of Congress might have rejected the state certificates giving Biden his 306 EC numbers, simply disregarding the 7-million-vote margin in the presidential election, and handed the presidency back to Trump?

Inconceivable? Perhaps. But try to just imagine what Donald Trump would have been doing in the weeks leading up to January 6 under this scenario. Public threats of being “primaried” would have been leveled against any Republican in the House or Senate who refused to overturn the state certificates. On the other hand, lawyers and Democrats would protest that using the January 6 session in this way would be unconstitutional. They would appeal to the Supreme Court. Then what? Americans would at the very least have had a mess on their hands equivalent to the one which followed the 1876 election. Other events would have intervened while the Court was mulling over how to respond. The one-third or more of voters who were convinced that the presidential election had been “stolen” would have been out in the streets, insisting that Trump must stay.

It had been the President’s endless tweeting about allegedly rigged or fraudulent election results which led to some 70% or more of Republican voters – making up nearly half of all voters who opted for either Trump or Biden – believing what he claimed. In effect, they accepted his right to remain in office despite the uncontradicted vote tally. In addition, it is clear that Mr. Trump believed that, if all else failed, the Supreme Court, one-third of whose members he had appointed, would grant him a second term no matter what both the popular vote and the Electoral College tally had been. In the situation where there was a unity of purpose between the legislative and executive branches, and a large segment of the citizenry aroused and motivated to support this outcome, what would the Supreme Court have done?

Almost all of the cases which come before the Court do so as a result of its “appellate jurisdiction” (as opposed to its “original jurisdiction”), which means that they are appeals in cases first filed in the lower federal courts. And in this respect it turns out that Congress holds a great deal of discretionary authority over the powers of the Court. A Cornell University website states: “Supreme Court holdings establish clearly the breadth of congressional power, and numerous dicta assert an even broader power, but that Congress may through the exercise of its powers vitiate and overturn constitutional decisions and restrain the exercise of constitutional rights is an assertion often made but not sustained by any decision of the Court.” In this context it is important to remember that quashing an

independent judiciary is one of the common features of authoritarian states, as the recent history of Hungary and Poland illustrates.

Conclusions:

Long-lived and successful democratic regimes are rather rare in human history. In fact there have been only three: postwar Europe (75 years), the modern American model (232 years), and the ancient Roman Republic, the latter having endured for almost five centuries (509–27BCE) before it gradually succumbed to dictatorship. Edward J. Watts, author of *Mortal Republic: How Rome Fell to Tyranny* (New York: Basic Books, 2018), has written: “Above all else, the Roman Republic teaches the citizens of its modern descendants the incredible dangers that come along with condoning political obstruction and courting political violence. Roman history could not more clearly show that, when citizens look away as their leaders engage in these corrosive behaviors, their republic is in mortal danger.”

Democracy is lost in stages, not all at once. It took over a century for the Roman Republic’s political institutions to be undermined and fatally weakened. As of the beginning of 2021, one-third of American voters, as well as one-quarter of Congressional legislators, appeared to be willing to maintain Donald Trump in office at President by invalidating the results of a free and fair election. That was Stage One. In addition, some of those legislators appear to be angling to inherit Trump’s voter base in order to fight the next round in 2024. That will be Stage Two. This is not over.

What could be done to staunch the wound? First and foremost, the rest of the electorate must clearly recognize the danger and understand that it is not going to disappear of its own accord; rather, they must resolve to confront it squarely, and the sooner the better. One suggestion will be made here. The House of Representatives should set up a formal inquiry, early in 2021, into the full story of attempts to subvert the 2020 election results. With that result in hand, they should launch a new impeachment process against Donald Trump (see #1 immediately below). This might again fail in the Senate, but its pragmatic purpose would be to increase the divisions in the Republican Party, perhaps causing it to fracture in two, one trumpist and one which seeks a return to traditional conservative political values.

The opposition simply cannot just sit still and watch for the next four years. It must establish and energize an anti-trumpist base, to focus on specific issues, such as combating voter suppression wherever it rears its ugly head. To be sure, there is a risk that this or similar moves will further motivate the Trump base, including threats and acts of widespread violence. That scenario can be dealt with by police and National Guard forces. Doing nothing, or just fiddling while waiting to see how 2024 turns out, is in my view the greater risk.

Appendix A: Some Relevant Comments

1.

“And last, we cannot risk Mr. Trump’s becoming president again — or for that matter, even running again with a chance of winning. This isn’t a point about ideology; it’s a reflection of the fact that our system may not be able to withstand this lawless man returning to the highest office in the land. Emboldened by our failure to hold him accountable for abusing his power in his first term, who knows what he would do in a nonconsecutive second term? The damage to our institutions from his first four years in office will take generations to undo. Our democracy might not be able to handle another four.”

Neal K. Katyal and Sam Koppelman, “Why Congress Should Impeach Trump Again,” *The New York Times*, 4 January 2021, noting that the impeachment power in Article I, Section 3 of the Constitution “entrusts Congress with the power not only to remove a president but also to prevent him or her from ever holding elected office again.”

<https://www.nytimes.com/2021/01/04/opinion/trump-georgia-impeach.html>

2.

“Trump’s attempt to overturn the election, and his pressure tactics to that end with Brad Raffensperger, the Georgia secretary of state, are an example of how authoritarianism works in the 21st century. Today’s leaders come in through elections and then manipulate elections to stay in office — until they get enough power to force the hand of legislative bodies to keep them there indefinitely, as Putin and Orban have done.”

Peter Baker, “An Insurgency from Inside the Oval Office,” *The New York Times*, 4 January 2021, quoting Ruth Ben-Ghiat, author of *Strongmen: From Mussolini to the Present* (New York: W. W. Norton, 2020):

<https://www.nytimes.com/2021/01/04/us/politics/trump-biden-inauguration.html>

3.

“The current attempt to undo the presidential election won’t succeed, but it has gone on far longer and attracted much more support than almost anyone predicted. And unless something happens to break the grip of anti-democratic, anti-truth forces on the G.O.P., one day they will succeed in killing the American experiment.”

Paul Krugman, Opinion Column, *The New York Times*, 5 January 2021:

<https://www.nytimes.com/2021/01/04/opinion/trump-republican-party.html>

4.

“The door to overturning a presidential election is open. The rules — or at least a tortured, politically motivated reading of the rules — make it possible. Moreover, it is a simple reality of political systems that what *can* happen eventually *will* happen. It may not be in four years, it may not be in eight, but if the Republican Party continues along this path, it will run this play again. And there’s nothing to say it can’t work.”

Jamelle Bouie, Opinion Column, *The New York Times*, 5 January 2021:

<https://www.nytimes.com/2021/01/05/opinion/trump-georgia-senate-elections.html>

5.

Congress and the Supreme Court:

<https://www.law.cornell.edu/constitution-conan/article-3/section-2/clause-2/power-of-congress-to-control-the-federal-courts>

6.

Advance warning of threats of violence in Washington, DC on January 6:

<https://www.washingtonpost.com/technology/2021/01/05/parler-telegram-violence-dc-protests/>

7.

“And I know you would like to get to the bottom of it, although I saw you on television today, and you said that you found nothing wrong. I mean, you know, and I didn’t lose the state, Brad. People have been saying that it was the highest vote ever. There was no way. A lot of the political people said that there’s no way they beat me. And they beat me. They beat me in the . . . As you know, every single state, we won every state. We won every statehouse in the country. We held the Senate, which is shocking to people, although we’ll see what happens tomorrow or in a few days.”

https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356_story.html

8.

“Cruz is already positioning himself as Trump 2.0; as a smoother, more intelligent and articulate demagogue. Trump lies in gross profusion; Cruz dresses his lies in the mantle of reasoned argument. Yesterday, we heard him speak of a “better way” that would help lawmakers avoid two “lousy” choices. The first lousy choice was “setting aside the election”. Only that choice wasn’t lousy, it was seditious – and two-thirds of congressional Republicans were, before the ugly scenes, scurrying to embrace it.” Lawrence Douglas:

<https://www.theguardian.com/commentisfree/2021/jan/07/trump-washington-dc-enablers>

9.

“The election of 2020, like the election of 2016, was hard fought and, in many swing states, narrowly decided. The 2020 election, however, featured unprecedented allegations of voter fraud, violations and lax enforcement of election law, and other voting irregularities. Voter fraud has posed a persistent challenge in our elections, although its breadth and scope are disputed. By any measure, the allegations of fraud and irregularities in the 2020 election exceed any in our lifetimes.”

Statement by 11 U. S. Senators, 2 Jan. 2021:

https://www.cruz.senate.gov/?p=press_release&id=5541

Is there anyone else who is reminded of “the big lie”? https://en.wikipedia.org/wiki/Big_lie

10.

“Then, when the invasion was over and Congress resumed in the late evening, Representative Matt Gaetz, a Florida Republican, took to the House floor and blamed antifa

during [a fiery speech](#). In it, he claimed that ‘some of the people who breached the Capitol today were not Trump supporters. They were masquerading as Trump supporters and in fact, were members of the violent terrorist group antifa.’

“All this happened even though Trump himself was clear that the Capitol invaders were his supporters, and even though the president had encouraged his followers to go to Washington and disrupt the certification of an election outcome that he falsely claimed was illegitimate. In fact, the rapid propagation of the Capitol false flag theory hints at what might happen once the president loses power in 14 days—even if moves by Twitter and Facebook to block Trump’s social media accounts become permanent. The network of right-wing conspiracy theorists may perhaps lose one of its most amplifying and strategic voices, but it does not need Trump to remain dangerous. Even when they viewed events with their own eyes on Wednesday, during one of the most disgraceful moments in modern American history, the ecosystem of Trump supporters, right-wing media outlets, and some politicians instead chose to believe something that sounded better to them—whether it was a lie or not.”

<https://www.technologyreview.com/2021/01/07/1015858/capitol-invasion-antifa-conspiracy-lie/>

Appendix B: A Twentieth-Century Cautionary Tale

Let us look briefly at an historical parallel, remembering that parallels are not exact reproductions for two events separated in time. On March 5, 1933 the Nazi party (NSDAP) won 43% of the vote and 288 seats in the Reichstag. But 324 seats were required for a majority, so the Nazis had to rely on a right-wing coalition partner, the German National People's Party (DNVP), to achieve a bare majority. (Remarkably, the two left-wing parties, the social democrats and the communists, still received almost 31% of the popular votes, despite having been subjected to widespread terror and violence during the previous month.) Just two weeks after the election, however, the slim majority passed the *Enabling Act*, effectively making Hitler dictator, and within months all other parties were banned.

To be sure, the Weimar Republic, Germany's first democracy, which lasted a mere 15 years, had always been a shaky regime, contesting with right-wing violence since its founding. The democracy in the United States of America, by way of contrast, has some 232 years under its belt. And yet the lesson of this historical parallel is that in highly-developed societies, democracy can be lost in stages. Between the elections of July 1932 and November 1932, the vote for the NSDAP had dropped 4% and the seat total had been reduced from 230 to 196; for a short while there was the possibility that the Nazis might never have come to power in Germany. But then some extra-parliamentary maneuvering behind closed doors made Hitler the Chancellor on January 30, 1933, after which he was able to rapidly expand the scope of the popular support he had built up earlier among a large segment of the German population. (See Peter Fritzsche, *Hitler's First Hundred Days*, New York: Basic Books, 2020.)

Unlike would-be dictators such as Donald Trump, genuine ones do not need lawyers. Pertinent here, therefore, is the case of Hans Litten. As a very young German Jewish lawyer, Litten had represented opponents of the Nazis in court from 1929 to 1932; in a trial in 1931, Litten had cross-examined Hitler for three hours. He was arrested less than a month after Hitler assumed power, and was tortured and brutalized mercilessly for five years before his body was found hanging in a latrine at Dachau. He was 34 years old. (See Nicolaus Wachsmann, *KL: A History of the Nazi Concentration Camps*, New York: Farrar, Straus & Giroux, 2015.)