

G-Men Out of Control

The U.S. isn't a banana republic, but its police apparatus sometimes comes close.

by Conrad Black



The broadening revelations of the lawless, almost putschist excesses of the Comey-McCabe FBI and elements of the Justice Department and the Brennan-Clapper intelligence services invite serious contemplation of how close the United States came to being a country where regime change might be plausibly and self-righteously attempted by what in undemocratic countries is generally known as the secret police. It is fantastic to contemplate such a thing in the United States, which is fundamentally prouder of nothing than of its Constitution and the immense place that the system created by that Constitution and maintained these 230 years by recourse to interpretation and reassertion of it has played in the unprecedented rise of America from a loosely connected group of colonists numbering only a few million at independence to

the overwhelming preeminence of the U.S.A. at the end of the Second World War. That preeminence has been substantially maintained since.

For at least 60 years I have heard high American officials announce that the United States is not a "banana republic." Of course it is not, and never was. But there is a complacency about America's status as a society of laws that is both unbecoming and unjustified. As many judges, lawyers, and commentators have noted, the level of prosecution success in criminal cases is over 95 percent, 97 percent of those without a trial; these, and the proportion of the population that is incarcerated, are totalitarian numbers. Congressional investigations where there is no lawyer-client privilege, the ease of alleging and gaining convictions on charges of dishonest responses to the police, as well as media trials long before a defense has even been filed (as in the Jussie Smollett case, where the chief of police of Chicago has been garrulously babbling out the prosecution evidence); all of this is a Star Chamber. None of it would be admissible in any other serious common-law country, such as Great Britain, Canada, Australia, or Ireland.

Every nomination to the Supreme Court is now a pitched battle replete with paid demonstrators at hearings and extensive campaigns of character assassination, but that court has sat inert as practically all the Bill of Rights' constitutional assurances of due process, prompt and impartial justice, and the avoidance of capricious prosecutions have been abandoned. It is in this, as other civilized jurisdictions would consider it, tenuous state of the rule of law that the antics of the Comey-McCabe FBI and Brennan-Clapper intelligence direction, and their partisan effort to bend the law to install Hillary Clinton as president and sandbag Donald Trump, should be considered.

Celebrated as Thomas Jefferson rightly is for his seminal role in the creation of the country's initial texts and its early

governance, one achievement for which he has received insufficient credit is the founding of the U.S. Military Academy at West Point in 1802. While this began as a corps of engineers limited to 20 men at first (led by Benjamin Franklin's nephew, Jonathan Williams), the objective was to assure a non-political class of officers. The focus on engineering was, at this early stage, the young nation's chief military requirement.

Jefferson's initiative assured the United States of a nonpolitical military. The country has had twelve presidents who were celebrated combat military officers, from Washington to Eisenhower, including citizen generals such as Jackson, Hayes, and Garfield. And it has had a number of presidents who were distinguished middle or junior officers, including Presidents Truman, Kennedy, Nixon, Ford, Carter, and George H. W. Bush, and six high-ranking military officers who were unsuccessful presidential candidates, including the first Republican candidate, Colonel John C. Frémont; a general fired by Abraham Lincoln as commander of the Army of the Potomac, George B. McClellan, who had the effrontery to run against Lincoln in 1864; and a hero POW, John McCain.

The point of this recitation is that none of these people dabbled in politics while they were in the armed forces. The only serious figure who did so was General Douglas MacArthur, who, in response to a freshet of Republican-delegate enthusiasm from a midwestern state while he was preparing to liberate the Philippines, wrote to a supporter for public circulation a letter stating that he would accept the Republican nomination in 1944, but would be unable to campaign (as if his commander-in-chief, President Franklin D. Roosevelt, would tolerate such a thing from a serving theater commander). When General Dwight D. Eisenhower was nominated as the Republican candidate for president in 1952, and was asked when he became Republican, he replied: "Today." No soldier has led Great Britain since Oliver Cromwell in the 17th century,

except the Duke of Wellington, for two years.

The federal police (FBI) are another matter. The leader of a successful previous organization and of the FBI for a total of 47 years, J. Edgar Hoover, has been strenuously criticized for his unscrupulous political machinations, but he never attempted to influence a presidential election. When the military are depoliticized, the secret police and intelligence services, if not reined in, can be very powerful, in a democratic country as in a dictatorship. In the Soviet Union, the army only briefly was politically influential, under Marshal Zhukhov just after the death of Stalin, while Stalin's last three secret-police leaders, Yagoda, Yezhov, and Beria, were all summarily executed after they had done a great deal of his unimaginable dirty work. Even in revolutionary and Napoleonic France, the greatest police minister in all history, the egregiously cunning Joseph Fouché, who sent the head of the Committee of Public Safety, Robespierre, to the guillotine at the end of the Reign of Terror, after Robespierre had tried to do the same to him, was sent packing finally, rich but mistrusted and powerless.

American democracy is insuperably strong in the hearts of the people and in 230 years of triumphant survival through a vehement and contentious national history. But the recent fantastic cascade of professions of righteous untouchability from Comey and McCabe and Brennan and Clapper shows that there is no institutional tradition of respect for and deference to the constitutional integrity of the system in the main police and intelligence agencies. Though fired for dishonesty and sent for grand-jury evaluation as a criminal lying to Congress and out of control, Andrew McCabe generally enjoys the support of the Trump-hating media in his book tour, celebrating a lawless disregard for the supremacy of the people under the Constitution. He feared that Trump might be a "Russian asset," and accordingly set a special counsel with practically unlimited powers, who engaged a fervently partisan Democratic

staff, upon him.

Almost the entire legal system of the United States requires radical reform and democratization, and the disarming of a virtually omnipotent prosecutocracy. It is the strength and the weakness of America that it is not really the gentle and kindly country portrayed by Norman Rockwell and Walt Disney. That America exists and is a revered pastoral self-image. But the United States is ultimately a jungle, and jungles are ruled by 30-foot constricting snakes and 600-pound cats, and these are usually the rulers of America, with a varying level of humanization.

The intense struggle for the highest positions in the country is a generally meritocratic struggle, with only rare lapses into mediocrity. The survival and elevation process leaves an inordinate number of severely shattered people. In such a society, the senior police and intelligence apparatus can be dangerous, and in the last few years, it has been. The outcome of the present struggle for power in Washington should include tighter civilian control of these agencies, as in the military, the end of the effort to criminalize policy differences, and the end of the attempted reduction of the drastic remedy of impeachment to a partisan power play to reverse the result of elections. That is essentially what it was in the Nixon and Clinton presidencies and has been since the 2016 election.

The United States has had a close call with something close to banana republicanism, and it must draw and apply the lessons of this turbulent time.

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