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## The Fire Trump Started



It is clear that Donald Trump has been hoping for a protest that he can use to expand his use of the military and other militarized units. A protest, no matter how modest, involving people of color and the issue of immigration presents the perfect opportunity. Los Angeles may be that opportunity, although there is no evidence of a threat to public safety.

Trump has little understanding or appreciation for American history, so it is safe to assume that he also has little or no understanding of German history. He might not appreciate a comparison of his activation of the National Guard to deal with a small street demonstration in Los Angeles, and Adolf Hitler's handling of the Reichstag Fire in Berlin nearly 90 years ago. Nevertheless, just as there was no justification for Hitler's response to the fire, the Reichstag Decree, there was no justification for Trump's federalizing of the National Guard to deal with dozens of U.S. citizens protesting the actions of the Immigration and Customs Enforcement.

In 1933, Hitler was bent on intensifying the violence on the streets in Germany. He received his opportunity in February, when a lone Dutch radical, Marinus van den Lubbe, burned down the Reichstag building to protest the injustices of unemployment. Hitler used this opportunity to persuade his cabinet to suppress the Communist Party and to arrest Social Democrats and trade unionists. There were hundreds of deaths in the streets of Berlin.

Van den Lubbe was guillotined shortly afterwards, and the German Supreme Court falsely concluded that the German Communist Party was responsible for the fire. A special People's Court was established with several judges from the Nazi Party to handle political offenses. The head of the Communist Party, Ernst Thalmann, was imprisoned, and the Court made sure that defendants had few rights in defending their innocence. Thalmann himself never got to court and never was formally charged, but he remained in prison.

It is far from certain how far Trump will go in exploiting the modest protest activity in Los Angeles, but it appears that many in the White House, including the president, are poised to exploit the situation, and were prepared to move forcefully if given the opportunity. Unlike Trump's first term, when he was denied the opportunity to activate the military to deal with domestic protests, there is no one in the current administration who can persuade Trump to apply the brakes. In fact, the provocative rhetoric of subordinates such as deputy chief of staff Stephen Miller, Secretary of Defense Hegseth, Secretary of Homeland Security Kristi Noem, and immigration tsar Tom Homan, provides every reason to believe that Trump will be encouraged to federalize National Guard forces and deploy active duty military forces as well. This is the first time that National Guard forces have been federalized since 1992, when there were serious civil rights protests.

The most dangerous step that Trump could take would be the invocation of the Insurrection Act of 1807 that empowers the president to nationally deploy the U.S. military and federalize National Guard units of individual states to deal with civil unrest. The Posse Comitatus Act prevents the use of the military in domestic situations, but it also declares that threats to national security would be an exceptional situation justifying the use of military forces. We have already observed that the Supreme Court defers to the executive branch in any situation that could be labeled a threat to national security. The American public would probably be supportive as well if a perceived threat to national security is declared.

The Insurrection Act has been modified twice to make it easier to declare an emergency. During the civil war, the federal government was allowed to deploy the National Guard and armed forces in "anticipation of continued unrest." In the 1870s, the Act was expanded to protect African-Americans from attacks by the Ku Klux Klan, which was cited in 1992 when

the National Guard was federalized to deal with desegregation fights during the Civil Rights era. Presidents Eisenhower and Kennedy used the Act to deal with political leaders who were fighting court-ordered desegregation. Ironically, the last time the Insurrection Act was applied was also in Los Angeles, but that was a case that involved serious riots, unlike the pathetically modest and non-threatening activity currently taking place.

Just as the Reichstag fire was exploited to restrict civil liberties such as intercepting the mail and tapping phones, it is possible that expanded protest activities and the use of force, however modest, will lead to further restrictions on freedom of speech and freedom of assembly. We know from Trump's first term as well as the writings of Project 2025 that the MAGA movement has no interest in guaranteeing the constitutional rights of Americans, let alone immigrants.

One thing we know for sure is that the administration is doing nothing to deescalate the situation or to bring the situation under control, which should be the primary objective. Trump is bleating that "they spit; we hit," and that the bar to deploy military force is "whatever I say it is. To make matters worse, Secretary of Defense Hegseth is talking about deploying the Marines. Trump and Hegseth are obviously willing to politicize the military that would compromise public confidence in our armed forces.

We have been far too complacent thus far in responding to the illegal and unconstitutional activities of the Trump administration in its first five months. We must continue to engage in civil disobedience against the illegal and unconstitutional actions of the Trump administration, although the current face-off will make it more difficult to do so if there is violence. We can only hope that the citizens of Los Angeles will heed Governor Gavin Newsome's request to avoid violence and make sure that Trump is not given the opportunity that he apparently seeks.

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