A Brief Addendum

"THE NATURE OF QUO WARRANTO"

by Joseph DeMaio, ©2021

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(Jun. 14, 2021) — As a brief addendum to your humble servant's prior post on the "*quo warranto*" topic (prompted by the comments of "Luke" and "Wilson"), an additional problem for Mr. Lindell and his lawyers takes the form of the proceedings in *Laity v. Harris*, USSC Doc. No. 20-1503. There, Mr. Laity pursued a "common law writ of *quo warranto*" seeking to oust Kamala Harris from office on the grounds that she is not a "natural born Citizen" as required by the Constitution.

As your humble servant has frequently noted here, here, and here, as a substantive "originalist" matter, Mr. Laity is likely correct. But being "correct" is not the same thing as getting the U.S. Supreme Court to concur.

Mr. Laity proceeded through the U.S. District Court (lost), the U.S. Court of Appeals for the District of Columbia (lost), then finally on a *certiorari* petition to the U.S. Supreme Court, where the petition was denied – without comment or dissent – on June 1, 2021. Mr. Laity has given assurances that he will be pursuing a motion for reconsideration, otherwise due before the end of next week, and failing relief on that path, a "Plan 'B'" thereafter. Your servant is monitoring that effort.

Insofar as Mr. Lindell's efforts are concerned, the notion that the Court would now, less than two weeks later, arrive at a different conclusion in an *original* action – not an appellate or review action like that of Mr. Laity – brought by Mr. Lindell would be, to use clinical terminology, highly unlikely.

And while a *quo warranto* action theoretically brought by one of the fifty sovereign states or their respective attorneys general might "get the ball rolling" for a live "case or controversy" coming before the Court in a subsequent term – the Court will likely end its current term (sorry, "Luke") following its presently last-scheduled session June 28, 2021 – that action would also face the problem presented by the *Johnson v. Manhattan Railway* case regarding the nature of *quo warranto, i.e.*, that it addresses only future illegality rather than retroactive correction of past usurpations.

These and related issues have been discussed here at the P&E for many years. However, the foregoing does not mean that the effort to oust should not be attempted – one cannot succeed if one does not try – but only that a *quo warranto* attack might not be the one most likely to succeed. Long story made short – and whether pursued by Mr. Lindell, Mr. Laity or a state attorney general – attempting to dislodge the "Goofball-with-access-to-the-launch-codes" via *quo warranto* proceedings may prove to be something of a quixotic effort, at least before the current Supreme Court.

Moreover, as the saying goes, be careful what you wish for, as you just might get it: under the Constitution, if the Goofball is removed, guess who replaces him? And if that person is shown to be constitutionally ineligible, who is next in line? Answer: the Speaker of the House. If such a cataclysmic event occurred, and the current Speaker became president, the Republic would cease to exist… by sundown… and the Wretch from San Crapcisco would welcome it.

Now on the other hand, if the Speaker of the House in 2023 (following his election to the House in 2022) were, say…, someone named Trump…