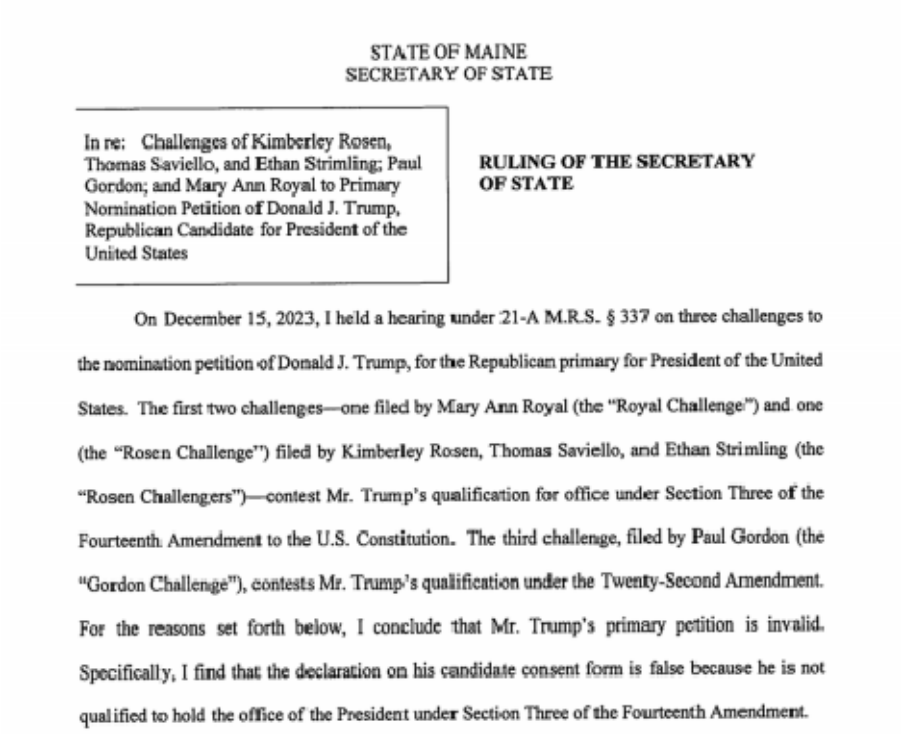
The Maine Trump Decision: Atrocious

"THE WRONG WORDS"

by Joseph DeMaio, ©2023



STATE OF MAINE
SECRETARY OF STATE

In re: Challenges of Kimberley Rosen, Thomas Saviello, and Ethan Strimling; Paul Gordon; and Mary Ann Royal to Primary Nomination Petition of Donald J. Trump, Republican Candidate for President of the United States

RULING OF THE SECRETARY OF STATE

On December 15, 2023, I held a hearing under 21-A M.R.S. § 337 on three challenges to the nomination petition of Donald J. Trump, for the Republican primary for President of the United States. The first two challenges—one filed by Mary Ann Royal (the "Royal Challenge") and one (the "Rosen Challenge") filed by Kimberley Rosen, Thomas Saviello, and Ethan Strimling (the "Rosen Challengers")—contest Mr. Trump's qualification for office under Section Three of the Fourteenth Amendment to the U.S. Constitution. The third challenge, filed by Paul Gordon (the "Gordon Challenge"), contests Mr. Trump's qualification under the Twenty-Second Amendment. For the reasons set forth below, I conclude that Mr. Trump's primary petition is invalid. Specifically, I find that the declaration on his candidate consent form is false because he is not qualified to hold the office of the President under Section Three of the Fourteenth Amendment.

(Dec. 29, 2023) — Well, faithful *P&E* readers, here we go again. Yesterday, on Dec. 28, 2023, Maine Secretary of State Shenna Bellows – a registered Democrat and perhaps one of ***the*** most anti-President Trump, pro-progressive and biased governmental officials in the nation – issued her 34-page "decision" determining that Mr. Trump's name would be excluded from the Maine presidential primary election ballot.

As for her political preferences, this should give one a small hint. And with regard to the image of Brandon and Shenna Bellows now "going viral" on social media platforms, note that Bellows explains that "President Biden [aka, Brandon] has a strong selfie game ***as evidenced by this picture he took with my phone!***" Yeah…, nothing telegraphs impartiality more than a selfie of Brandon and Bellows taken on Bellows' smartphone…, held by the Goof.

In this offering, your humble servant will attempt to address the issues in a slightly different way. Rather than dissecting the Maine "decision" paragraph-by-paragraph – as was done in addressing the Dec. 19, 2023 Colorado Supreme Court *per curiam* 4-3 decision in *Anderson v. Griswold*, discussed and critiqued here – the following will focus on Ms. Bellows' overall claim of "impartiality" and freedom from "bias" against President Trump. Readers interested in the details of her decision should read it and, against the backdrop of the *Anderson* decision, reach their own conclusions.

Because her decision must be viewed against the general backdrop of the *Anderson* ruling, if not already done, readers are encouraged to first review your servant's prior post. It will put into better perspective the defects of this recent Maine decision consistent with, in particular, the dissenting opinions in the *Anderson* case.

Translation: this offering will use a little less "legalese," but will arrive at the same conclusion as regarding the Colorado decision, *i.e.*, that there is approximately ***zero*** likelihood that either the Colorado *per curiam* majority decision or the Bellows decision now released in Maine would be upheld on appeal, eventually in the U.S. Supreme Court.

Both determinations are so lacking in fundamental legal analysis and respect for the history of the 14th Amendment – not to mention Ms. Bellows' absolute, almost *giddy*, ***disregard*** for President Trump's due process rights under the Constitution – that even a first-year law school *dropout* would not be tempted to make the arguments now being touted as "essential" and "unavoidable" to protect "democracy" from the threat of Orange Man Bad.

Bull… roar.

At the beginning of the decision, Bellows states: "I conclude that Mr. Trump's primary petition [seeking placement on the Maine presidential primary ballot] is invalid. Specifically, I find that the declaration on his candidate consent form is invalid because he is not qualified to hold the office of the President under Section Three of the Fourteenth Amendment."

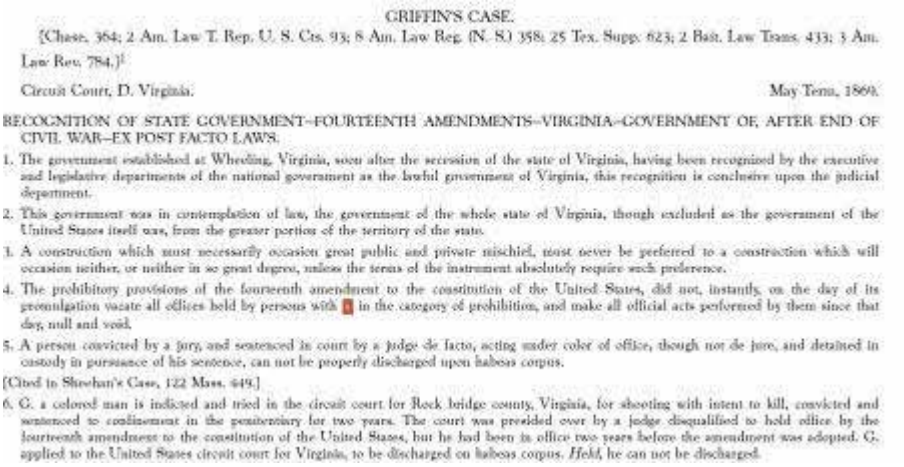
Shenna Bellows during campaign for U.S. Senate, 2014 (Wikimedia Commons, CC by SA 3.0)

Laughably, regarding her denial of President Trump's motion that she recuse on the grounds of bias – purportedly because it was not filed "timely" – she claims that even if she had not denied the motion as untimely, she "would have determined that [she] could preside over this matter impartially and without bias. My decision is based exclusively on the record before me, and *it has in* ***no way*** *been influenced by my political affiliation* ***or personal views about the events of January 6, 2021***." (Emphasis added)

Really? ***Seriously?*** What on Earth ***other*** than something like that would you expect a person – particularly a Democrat – in her position to say? The record and the "receipts," as they say, paint an ***entirely*** different picture.

Her "decision" reeks of personal animosity and disdain, not only for President Trump, but for the rule of law, the Constitution and the history and intent of the 14th Amendment. And while she claims "I do not reach this conclusion lightly," her decision displays that it is not only "wrong," it also shouts "lightweight."

Indeed, one might be tempted to also speculate that the final "decision" – extensively footnoted and linked to the Westlaw® legal resource database – was composed by persons *other* than Shenna Bellows, although she did sign it. She is not a lawyer, but earned a B.A. degree at Middlebury College (Vermont) with "high honors" for her thesis on "economic and environmental sustainability."



GRIFFIN'S CASE.

[Chase, 364; 2 Am. Law T. Rep. U. S. Cts. 93; 8 Am. Law Reg. (N. S.) 358; 25 Tex. Supp. 623; 2 Bait. Law Trans. 433; 3 Am. Law Rev. 784.]

Circuit Court, D. Virginia. May Term, 1869.

RECOGNITION OF STATE GOVERNMENT—FOURTEENTH AMENDMENTS—VIRGINIA—GOVERNMENT OF, AFTER END OF CIVIL WAR—EX POST FACTO LAWS.

1. The government established at Wheeling, Virginia, soon after the secession of the state of Virginia, having been recognized by the executive and legislative departments of the national government as the lawful government of Virginia, this recognition is conclusive upon the judicial department.

2. This government was in contemplation of law, the government of the whole state of Virginia, though excluded as the government of the United States itself was, from the greater portion of the territory of the state.

3. A construction which must necessarily occasion great public and private mischief, must never be preferred to a construction which will occasion neither, or neither in so great degree, unless the terms of the instrument absolutely require such preference.

4. The prohibitory provisions of the fourteenth amendment to the constitution of the United States, did not, instantly, on the day of its promulgation vacate all offices held by persons with [redacted] in the category of prohibition, and make all official acts performed by them since that day, null and void.

5. A person convicted by a jury, and sentenced in court by a judge de facto, acting under color of office, though not de jure, and detained in custody in pursuance of his sentence, can not be properly discharged upon habeas corpus.

[Cited in Sheehan's Case, 122 Mass. 449.]

6. G. a colored man is indicted and tried in the circuit court for Rock bridge county, Virginia, for shooting with intent to kill, convicted and sentenced to confinement in the penitentiary for two years. The court was presided over by a judge disqualified to hold office by the fourteenth amendment to the constitution of the United States, but he had been in office two years before the amendment was adopted. G. applied to the United States circuit court for Virginia, to be discharged on habeas corpus. *Held*, he can not be discharged.

https://law.resource.org/pub/us/case/reporter/F.Cas/0011.f.cas/0011.f.cas.0007.pdf

Whether her "high honors" B.A. degree and thesis on "economic and environmental sustainability" well-qualifies her (or not) to examine and analyze the legal interstices of Clause 3 of the 14th Amendment and whether that clause is "self-executing" or not, given the "riding circuit" opinion of Supreme Court Chief Justice Salmon Chase in "*In re Griffin*," 11 F. Cas. 7, at 39 (C.C.D. Va. 1869) (No. 5,815) ("Griffin's Case")…, is quite another question. For the curious, the details of that case, and why it is relevant to the underlying debate, can be found in Colorado Supreme Court Justice Samour's dissent in *Anderson.*

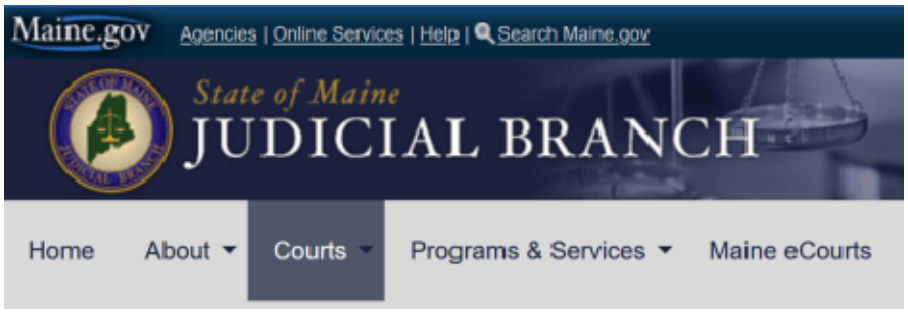
But I digress. Mea culpa.

The one bright spot in the otherwise dark and incoherent Bellows document is her statement in conclusion that she "will suspend the effect of [her] decision until the Superior Court rules on any appeal, or the time to appeal under 21A, Section 337 has expired."

Clearly, Trump's lawyers intend to file an appeal of Bellows' ruling, so the matter will percolate until the Maine Superior Court rules. The Maine presidential primary voting date is March 5, 2024. Given that some time must be allowed for the final printing of ballots, one would assume that the Maine Superior Court would hand down a ruling before a printing deadline expired, but that is mere speculation.

And of particular note here – as opposed to in Colorado, where the decision at issue came from an appellate tribunal – the Maine Superior Court is the trial court of general jurisdiction. Moreover, it is the ***only*** Maine court where the *right of jury trial* is available.

Soooo…, ya think Mr. Trump's lawyers might be considering a demand for a jury trial? How do you think that might work out for Bellows? Watch for her lawyers to argue that no jury trial is warranted and should be denied since there are, purportedly, "no material disputed fact questions," then move for the judge, whoever that might be, to render "summary judgment" in her favor on the law alone.



https://www.courts.maine.gov/courts/superior/index.html

The bottom line here is that rogue, biased Democrat secretaries of state throughout the nation, not just in Maine or Colorado – "bellowing" loudly that they are "defending democracy" by excluding President Trump from their ballots – are instead doing ***precisely*** the opposite: denying to large portions of the electorate – including members of the Maine Superior Court jury pool – the right to cast their ballots for President Trump.

The purported rationale for what in actuality is their raw and unambiguous ***election interference*** is the un-adjudicated, due process-lacking allegation that President Trump was "guilty" of engaging in an act of insurrection on Jan. 6, 2021, by telling his supporters to "peacefully protest" the results of the 2020 election.

Conveniently, the Democrats forget that President Trump was ***acquitted*** by the Senate on his second Pelosi impeachment boondoggle of "incitement of insurrection." More on that later.

President Trump's lawyers, in a letter to Bellows seeking her recusal on the grounds of bias, produced "receipts" in the form of several "tweets" she posted on Elon Musk's new "X"

platform in 2021 and 2022. Those receipts flatly contradict her hard-to-believe claim that she could preside over the dispute "impartially and without bias…"

You, *P&E* readers, be the judge:

● On Feb. 13, 2021, Bellows posted: "The Jan. 6 insurrection [*sic*] was an unlawful attempt to overthrow the results of a free and fair election [*sic*]. Today 57 Senators including [Maine Senators] King & Collins found Trump guilty. That's short of impeachment [*sic*] but nevertheless an indictment [*sic*]. The insurrectionists failed, and democracy prevailed." Note that there are several "[*sic*]" signals your servant has inserted, discussed hereafter.

● On the same day, Feb. 13, 2021, reacting to the *acquittal* – ***not*** conviction on impeachment for "incitement of insurrection" – Bellows posted: "Not saying not disappointed. He should have been impeached [*sic*: he ***was*** impeached by the house, and ***acquitted*** by the Senate]. But ***history will not treat him or those who voted against impeachment*** [*sic*] ***kindly***." (Emphasis added)

● On Jan. 6, 2022, one year after the ***riot*** – not to be confused with an "insurrection or rebellion against the Constitution of the United States," the *sine qua non* of an "insurrection" or "rebellion" under the 14th Amendment – she posted this: "One year after the violent insurrection [*sic*], it's important to do all we can to safeguard our elections… [referencing]: WMTW TV @WMTWTV Jan. 6, 2022 Maine secretary of state seeks to protect election officials, ballot and voting machine integrity."

Where to start, where to start?

Quite apart from the shallow reasoning of her "decision," any one of those posts by Bellows eviscerates any claim of "impartiality" or freedom from "bias" in addressing the bogus claim that Clause 3 of the 14th Amendment bars President Trump from office, let alone the combined venom of the posts she directs at him. Bellows not only displays a visceral animosity toward President Trump, she also reveals her ignorance of the law, the Constitution and fundamental rules of grammar.

As a preliminary matter, your humble servant posits, as he has done in the past, that words are important, even in "X" posts. Your servant is thus reminded of the observation by Mark Twain when commenting on words and on the importance of selecting the "right" as opposed to the "not right" word, "[T]he difference between the almost right word and the right word is really a large matter – it's the difference between the lightning bug and the lightning." Ms. Bellows needs to read more Mark Twain.

By way of example, as to her first "X" post, she labels the Jan. 6 riot an "insurrection." Wrong. As noted in Justice Samour's dissent in the Colorado case, unless and until President Trump were to be charged ***and convicted*** of violating 18 U.S.C. § 2383 – the specific federal statute criminalizing "insurrections" and "rebellions" and declaring persons convicted thereunder to be disqualified from federal office as required under the 14th Amendment – he cannot, consistent with his due process rights, be declared "guilty" of participating in an "insurrection."

Parenthetically – and further demonstrating the carelessness that typifies the decision – she cites (p. 26 of the document) as the purported federal statute governing rebellions and insurrections as "18 U.S.C. § 2883" instead of the correct citation, noted above, 18 U.S.C. § 2383. There is no such statute in the federal criminal code corresponding to her typo-afflicted citation.

While this might seem to be a trivial point, in a decision purporting to have the gravitas and immense importance she claims, and one that comes to a conclusion which she asserts she has not "reached lightly," it is posited that a better proofreading of the final product could have been performed. That task should have been done by Ms. Bellows or whoever concocted the document.

18 USC 2383: Rebellion or insurrection
Text contains those laws in effect on December 28, 2023

From Title 18-CRIMES AND CRIMINAL PROCEDURE
PART I-CRIMES
CHAPTER 115-TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES
Jump To:
Source Credit
Miscellaneous
Amendments

§2383. Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined under this title or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States.

(June 25, 1948, ch. 645, 62 Stat. 808 ; Pub. L. 103–322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147 .)

Source

To this point, has U.S. Attorney General Merrick Garland – clearly, no fan of President Trump – seen fit to indict or charge President Trump
under that statute? Let us say it together: "No." Might he yet charge President Trump? Who knows? But remember, Garland is a Beltway Democrat, so do not bet the farm that he would ***not*** do so, if only "just for lawfare sport."

And because, in Justice Samour's view, the 14th Amendment is not "self-executing" – *i.e.*, it requires a statute enacted by Congress to "trigger" its application – it is ***well*** beyond absurd to claim that President Trump is today "guilty" of "insurrection." Indeed, as already noted, he has been ***acquitted*** by the Senate on Pelosi's second impeachment folly of being culpable for "incitement of insurrection."

And while that charge might not be considered in legal circles to be a "lesser included offense," barring on "double jeopardy" grounds a second, different "prosecution" of President Trump for "insurrection," a court might conclude otherwise.

Specifically, because 18 U.S.C. § 2383 also criminalizes ***incitements*** to insurrection, and Mr. Trump has already been acquitted by the Senate on the second bill of impeachment of "incitement of insurrection," Garland might be holding off because he can "see the writing on the wall" and wants to avoid what would be, manifestly, a "piling on" by his "Department of Just-Us." Or, as disgraced FBI agent Peter Strzok noted during the "Russia collusion" debacle: "There's no big there there."

Accordingly, Bellows' claim that he is disqualified because – without a due process trial or anything even remotely resembling one – he is guilty of "insurrection" is pure, unadulterated, not

to mention laughable, *ipse dixit*: "It is so because I ***say*** it is so." Memo to Bellows and her legal advisors: wrong yet ***again***.

Her first "X" tweet also claims that, even though he was acquitted by the Senate on Pelosi burp # 2, the acquittal was "short of impeachment, but nevertheless an indictment." Again, Bellows displays her ignorance, albeit in a "tweet." President Trump's ordeal in the Senate came *after* he was, in factual ***reality***, "impeached." The proceeding in the Senate was a "trial" coming *after* the House impeachment, which trial…, dare I repeat myself…, resulted in his ***acquittal***.

https://twitter.com/shennabellows

Undaunted, as well as grammatically-challenged, Bellows nonetheless asserts that the "acquittal" was an "indictment." If that were true, it must have come as a total surprise to Merrick Garland. No doubt she would excuse her lazy selection of words by claiming that she meant it in the "generic" or "general" rather than "legal" sense. Again, words are important. Nice try, Ms. Bellows…, but no cigar.

Moving to her second "X" post of the same day and "tweeting" about the Senate acquittal, Bellows admits: "Not saying not disappointed. He should have been impeached [*sic*]. But ***history will not treat him or those who voted against impeachment*** [*sic*] ***kindly***." (Emphasis added)

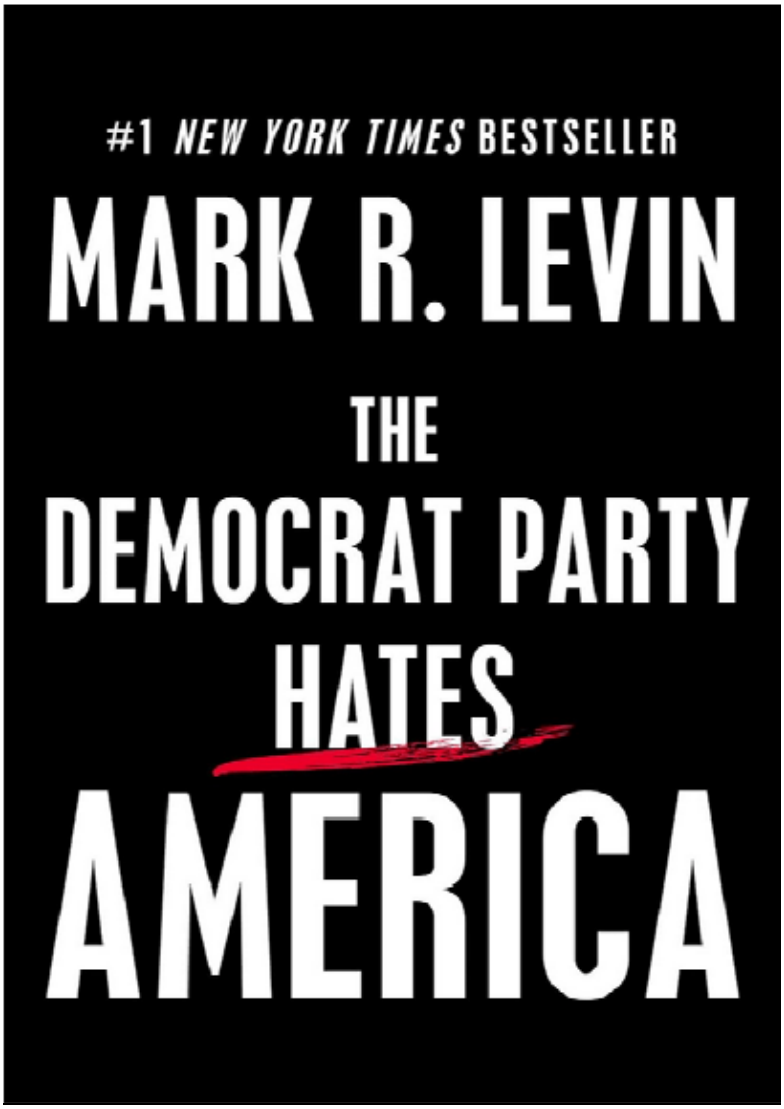
Let us examine Bellows' carelessly selected words more closely. By initially announcing, via a double-negative, that she was "not saying [that she was] not disappointed…," she plainly concedes that she ***was*** disappointed. A blind Martian could see and identify that admission as a confession of bias against President Trump.

She then adds that "[h]e should have been impeached." Clearly, she has no understanding of the distinction between "impeachment" – the clear and exclusive prerogative of the House of Representatives – and "conviction" upon the *assertion* of charges under a resolution or bill of impeachment transmitted to the Senate for trial. Here, of course, and to reiterate, President Trump was ***not*** convicted but instead was ***acquitted*** by the Senate of the impeachment allegations.

Underscoring her bias and unvarnished disdain for President Trump, she then adds: "… [H]istory will not treat [President Trump] or those who voted against impeachment [*sic*] kindly." Disregarding Bellows' persistent confusion and conflation of an "impeachment" by the House and a "trial on a bill of impeachment" by the Senate, even to a cynic, those words sound vaguely like a threat or warning. Indeed, one might even be tempted to speculate that those words in her

second tweet have now blossomed into reality for President Trump. Take ***that***, Orange Man Bad!

Her final "X" tweet, claiming that she is "doing all … [she] can to safeguard our elections…" is sublimely ironic…, and hypocritical. By going full "*ipse dixit*" in total disregard for the law, for the history of the 14th Amendment and most of all, for President Trump's due process rights in booting him from the Maine primary ballot – with the Maine primary election now less than 70 days away – is disgusting. It is downright un-American.



https://www.amazon.com/Democrat-Party-Hates-America-ebook/dp/B0C7RJMJ8S

On the other hand, increasingly, the Democrat Party, along with its apparatchiks and sycophantic stenographers in the print and electronic media, seem to be more than just comfortable with un-American activities. If you doubt it, after finishing this post, go read Mark Levin's new book: "The Democrat Party Hates America."

Among those activities to be put on the list one might include the eradication of the southern border and the incentivizing of millions of illegal aliens to invade the country. Also included might be the lifting of sanctions and rewarding of hostile foreign nations with billions of dollars, which dollars go to fund military attacks on Americans and our allies by proxies of the hostile nations …, and even facilitating the enrichment of uranium…, but only for "peaceful purposes," of course. Thank you, Barack Obama and John Kerry.

And not to be omitted from the list, of course, would be unlawful, unconstitutional and plain stupid efforts to preclude the democratic election of a person who millions of Americans still believe should be the President of the United States by declaring him "disqualified" from even being placed on the ballots of states governed by Democrat secretaries of state like Shenna Bellows. Placing him on the ballot actually gives him a chance of being elected…, yikes! That is an election horror ***not*** to be tolerated.

The list could go on and on, but to what end? The results of the dispute will not be determined by what your humble servant or others offer here at *The P&E*. But then again, it can't hurt.

Referring back to Mark Twain's advice about selecting the "right word" as opposed to the "almost right" word when describing things, suffice it to say that the Bellows decision – apart from whomever the author might be – can be described in one word: "atrocious."

Although it has emanated from a Democrat who claims to be "impartial" and "unbiased," a pretty good argument can be made that, from Mark Twain's viewpoint, those are ***clearly*** the "wrong" words to describe Ms. Bellows' product.