

The Role of the Military in Presidential Politics

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During the Bush-Kerry presidential election of 2004, both candidates sought and received endorsements from retired high-ranking military officers. At the Democratic National Convention, Senator John Kerry “surrounded himself not only with former Navy colleagues but also with prominent retired military brass.” Retired Army General (and former candidate) Wesley Clark spoke at the convention, describing Kerry as “a leader, a fighter, and he will make a great commander-in-chief.”¹ Twelve retired generals and admirals endorsed Kerry, including such notables as Admiral William Crowe, former Chairman of the Joint Chiefs of Staff, and General Merrill McPeak, former Air Force Chief of Staff. McPeak subsequently appeared in television advertisements defending Kerry and his service in Vietnam in response to critical television advertisements from the Swift Boat Veterans for Truth. Retired Army General Tommy Franks, the architect of the successful invasions of Afghanistan and Iraq, publicly endorsed President George W. Bush and later spoke in support of the President before a national audience at the Republican National Convention.

Similarly, during the 2008 Obama-McCain presidential campaign, retired military leaders actively endorsed and campaigned for candidates. One of America’s most respected retired officers, former Secretary of State Colin Powell, crossed party lines and endorsed candidate Barack Obama on national television. E-mails from “General Wesley Clark” sought campaign contributions for then-candidate Obama.² This was followed by Clark’s devaluation on national television of Senator John McCain’s war record in Vietnam, prompting then-Senator Obama to disavow Clark’s criticisms.³ In reporting the event, one article referred to Clark as a “prominent Democratic general.”⁴

The public endorsement of presidential candidates by retired general officers reflects a disturbing trend toward the politicization of the American military, and concomitantly, a gradual departure from the nonpartisan pro-

fessional military ethic. This modern trend began subtly with the candidacy of Dwight D. Eisenhower but has taken a very disturbing and public turn as prominent retired officers began to endorse candidates. What was once considered inappropriate behavior has now become commonplace.

This article will review the history of the development, and gradual erosion, of a professional military ethic of political neutrality. Further, the article will examine the current state of permissible military participation in the political process. Finally, the authors posit that active and public participation of retired military officers in partisan politics, in their capacity as retired military officers, should be discouraged as potentially damaging to the US armed forces in both material and philosophical ways. If the military of a democracy is politically partisan, it is, in effect, damaging to democracy itself in that the military does not serve in the fullest, most impartial manner.

The Development of a Politically Neutral Military

Although the historical tradition of an “apolitical” military is generally accepted among most Americans, many might feel uncomfortable when contemplating the rather large number of men who have parlayed military achievements into political success. Prior to the Civil War, George Washington, Andrew Jackson, William Henry Harrison, and Zachary Taylor all ascended to the presidency after successful military careers. Lieutenant General Winfield Scott more frequently, if less prosperously, attempted to secure the presidency, while simultaneously serving as Commanding General of the Army. Scott’s political ambitions date at least to the 1840 presidential campaign, which Harrison, a former general, won. In 1852, Commanding General Scott ran unsuccessfully for President as the Whig Party candidate, garnering more than 40 percent of the popular vote but losing heavily in the electoral vote.

The prospect of political challengers from within the American military influenced at least one commander-in-chief’s decisions in wartime. During the Mexican-American War, President James Polk faced a politico-military conundrum in that the two most capable generals in the Army, Taylor and Scott, were both members of the opposition political party, although

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Taylor's public ambition paled in comparison to Scott's. Polk was reluctant to grant Scott a major field command due to that officer's overt potential as a political rival. His reluctance was only overcome by the very real need to reenergize the American war effort. Despite the acclaim related to Scott's brilliant campaign to capture Mexico City, it was in fact Taylor who became the next general-cum-president in 1848.

Early attempts at neutering the military's partisan political activity were uncommon and unsuccessful. For example, Sylvanus Thayer, Superintendent of the US Military Academy from 1817-33, brought to West Point a number of reforms, including an attempt to "inculcate political neutrality among cadets."⁵ During the election of 1832, Thayer severely reprimanded a cadet for placing a hickory pole in the parade ground as a sign of support for Andrew Jackson, a decision later reversed by Jackson himself, who thought the incident amusing.

The post-Civil War period is generally viewed as the beginning of the American professional ethic of a nonpolitical military. After assuming command of the Army in 1869, General William Tecumseh Sherman held that position for 14 years and stubbornly kept the institution out of partisan politics. The Army "discourage[d] officers from taking an interest in politics."⁶ Indeed, the vast majority of post-Civil War officers did not even vote,⁷ and "most avoided public pronouncements regarding the presidency."⁸ Sherman disliked the politics of Washington, D.C., to such an extent that he relocated the headquarters of the Army. For two years, the Commanding General and his staff were in St. Louis, Missouri, physically removed from the center of political influence.

The traumatic divisions of the nation during and following the Civil War were often reflected among the political views of senior officers. In the contest between the Radical Republicans and President Andrew Johnson, the Republicans could have found no more promising candidate for President than Lieutenant General Ulysses S. Grant. Although it may have been inevitable that Grant would run for President, given the historical precedents of Washington, Jackson, and Taylor, his potential candidacy was strengthened when he lent tacit support to the Radical Republicans and Secretary of War Edwin Stanton during the Tenure of Office Act imbroglio that eventually led to the impeachment trial of President Johnson. Although not an active participant, Grant clearly, though mutely, positioned himself in opposition to his own commander-in-chief. In 1869, he resigned his duties as Commanding General of the Army, in order to be inaugurated President.

As early as the Republican victory under Abraham Lincoln in 1860, the rump Democratic Party actively sought to lure prominent military officers into its fold. Winfield Scott's namesake, Major General Winfield Scott

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Hancock, achieved a magnificent combat record during the Civil War. As early as the 1864 Democratic convention, he received at least one favorite-son delegate vote for the presidential nomination while recuperating from a near-fatal wound inflicted at Gettysburg. The Democratic nomination eventually went to sacked Major General George B. McClellan, who was no longer on active service.

Hancock's case is fascinating, in that he actively ran for the Democratic presidential nomination three times while serving as a flag officer, nearly all of that time under the command of the "apolitical" Sherman. Hancock lost the nomination in 1868 and 1876 but successfully secured it in 1880. In a very narrow election, he was defeated by Republican and former Civil War general James A. Garfield. In the turmoil following the contested Rutherford B. Hayes/Samuel J. Tilden election of 1876, rumors ran rife that Hancock, whom Tilden had defeated for the nomination, would enforce a Tilden win by force. So common was such talk that Hancock felt compelled to write to Sherman, then Commanding General of the Army, to baldly state, "The Army should have nothing to do with the selection or inauguration of Presidents." Hancock clearly made a distinction between the Army as an institution and his own personal ambitions as a four-time candidate for President.⁹

Significantly, from Hancock's defeat in 1880 until the 1952 candidacy of Dwight Eisenhower, no professional military officer was nominated for the presidency. In his seminal work, *The Soldier and the State*, Professor Samuel Huntington characterized this 72-year gap as a reflection of "the heightened professionalism of the post-1865 military."¹⁰

With few exceptions, the political neutrality of the career military was solidly entrenched as a professional ethic from the post-Civil War period through the eve of World War II. During the pre-WWII era, most professional officers were not concerned with partisan politics. Indeed, most of them rarely voted.¹¹ At least within the Army, the aversion to participation in partisan politics, including voting, had risen to the level of established custom.¹² The military attitude was that the armed forces were "the neutral servant of the state," loyal to "whoever held the reins of power under the constitutional system," and as such "stood above the dirty business of pol-

itics.”¹³ Political affiliation, even voting, was viewed as being in conflict with military professionalism.

General George C. Marshall epitomized the military tradition of political neutrality, avoiding all participation in partisan politics. Marshall reportedly never voted.¹⁴ Contrasting starkly with the hyper-political Franklin Roosevelt, Marshall’s Olympian refusal throughout World War II to mint any personal political coin from his tremendous responsibilities and visibility engendered ironclad trust from the President. Roosevelt, spared the shadow of political competition from his Army Chief of Staff, could unflinchingly listen to Marshall’s counsel and advice. He did not always accept Marshall’s suggestions, but the general’s stoic recognition of ultimate civilian control effectively buttressed his authority. Marshall’s apolitical attitude was a major component in his effectiveness. Upon becoming Secretary of State in 1947, Marshall publicly disavowed any intention of ever being a candidate for political office or getting involved in politics, and declared the office of Secretary of State under his tenure to be “nonpolitical.”¹⁵

Juxtaposed against Marshall is another titanic figure of World War II, General Douglas MacArthur. MacArthur’s personal ambitions for the presidency were substantially less direct and public than Hancock’s. During and after the war, his ongoing correspondence with conservative Republicans was frequently critical of both Presidents under whom he served (Roosevelt and Harry S. Truman). Public revelation of these exchanges usually resulted in blustery denials by MacArthur, but he continued writing nevertheless. In 1944, a brief MacArthur candidacy received a lone delegate vote for the Republican presidential nomination. While he was serving as military governor in Japan during the 1948 convention, his backers again unsuccessfully forwarded his candidacy. In 1951, MacArthur’s criticism of administration policy, and somewhat clumsy sidestepping of personal blame for the ongoing debacle in Korea, ultimately resulted in his relief by President Truman. Thereafter, MacArthur’s career and political aspirations both faded away.

A watershed event in the politicization of the military was the decision by retired General Dwight D. Eisenhower to pursue the presidency. Beginning in 1949, various politicians began to lobby Eisenhower to run for President on the Republican ticket, including such prominent figures as former New York governor and presidential candidate Thomas Dewey and Massachusetts Senator Henry Cabot Lodge. Marshall discouraged General Eisenhower from running for President, “counsel[ing] him to forsake any interest in politics or political preferment as inconsistent with the career of a professional soldier.”¹⁶ Like Marshall, Eisenhower had previously abstained from politics to the point of not voting.¹⁷

Changes to the Core Value

Today, the active-duty military as an institution maintains its de jure traditional separation from partisan politics as a core value of its professional ethic.¹⁸ Department of Defense Directive (DODD) 1344.10, *Political Activities by Members of the Armed Forces*, prohibits members of the active-duty military from participating in several forms of partisan political activities, including using their official authority to influence an election or solicit votes or monetary contributions for a candidate; marching in a partisan political parade; and publicly displaying partisan political posters at the service member's military quarters.¹⁹ At court-martial, a witness "has a privilege to refuse to disclose the tenor of the person's vote at a political election conducted by secret ballot unless the vote was cast illegally."²⁰

The military's leadership also takes steps to reinforce the concept of a politically neutral military. In a May 2007 speech before graduates of the US Naval Academy, Secretary of Defense Robert Gates reminded the new officers of the importance of "a nonpolitical military" and their obligation "to inform people below them that the military 'must be nonpolitical.'"²¹ As the nation approached the 2008 presidential election, the Chairman of the Joint Chiefs of Staff, Admiral Michael Mullen, sent a message to service members reminding them to "remain apolitical at all times," emphasizing that the military was "a neutral instrument of the state," and encouraging personnel to keep their "politics private."²²

Despite being officially politically neutral, however, military members vote, and these votes are actively courted by political parties. Indeed, votes from Union soldiers and sailors are widely believed to have been decisive in Lincoln's victory over McClellan in 1864.²³

Further, despite the military's official position, there has been a growing concern that the officer corps is becoming increasingly politicized.²⁴ The current officer corps regularly votes and "identif[ies] with a political philosophy and party," usually Republican.²⁵ Indeed, military voting patterns indicate that members of the armed forces vote "in greater percentages than that of the general population."²⁶ The long-term pro-Republican trend may have tapered off during the most recent election, however.²⁷

No definitive explanation exists for the military's increasing politicization. The politicization of the military since WWII has been a gradual process, with a number of factors contributing to its present problematic state. Despite Marshall's counsel, General Eisenhower did successfully pursue the presidency, striking a very visible blow to the career military's wall of political neutrality.

Further developments contributed to the deterioration of the military's political neutrality. One historian suggests that military officers began to vote in the 1950s and concomitantly became more interested in politics as the military's cultural taboo against even this modest form of political participation was discarded, due to implementation of the Federal Voting Assistance Program. Later, the Republicans captured the military vote in the 1980s when President Ronald Reagan "reached out to the military as a core constituency."²⁸ Further, it has been posited that the military's more recent political orientation was a reaction to the Clinton Administration. The military leadership increasingly acted "politically to counter some of that administration's policies, and the administration responded by politicizing the senior officer selection process to an unprecedented extent."²⁹ Regardless of the cause, while the military as an institution still embraces political neutrality as a core value, those who fill its ranks, and many retired officers, are increasingly abandoning that tradition as a matter of individual practice.

Permissible Roles of the Retired Military

Like any other citizen, members of the retired military can, and should, participate in American politics when doing so in their civilian capacities. Retirees appropriately vote, run for office, and support the candidacies of others. Retired service members cite their experience and service to the nation when seeking office or when serving in an administration as a political appointee. Indeed, DODD 1344.10 permits members of the armed forces not on active duty, including retirees, who run for office to mention their rank, branch of service, and title and to use a military photograph so long as their retired status is clearly indicated and their biographical information disclaims any official endorsement.³⁰

As recent examples, presidential candidate John McCain, a retired Navy captain, highlighted his honorable service as a Navy pilot and prisoner of war while campaigning. In the Obama Administration, retired Army General Eric Shinseki serves as Secretary of Veterans Affairs and retired Marine Corps General James L. Jones is the President's national security adviser. Following in the model of Marshall, Jones was described by a commentator as a person who did not seek the job, does not need it, and "has no agenda except to serve the President."³¹

Although more controversial, participation by various veterans' organizations, such as the American Legion or Veterans of Foreign Wars, in political activity is now generally viewed as acceptable. This was not necessarily the original view of most Founding Fathers, however. After months, if not years, of poor or nonexistent pay, an unreliable supply system, and

other growing frustrations in the Revolutionary Army, many American officers openly viewed the Continental Congress as the source of their woes. In March of 1783, George Washington was ultimately forced to personally address these frustrations in a gathering of his officers, the famous “Newburgh Address.” Washington’s immense prestige defused the immediate situation, but few remedies actually emerged from Congress.

At the formal close of the Revolution in 1783, the still-unpaid and frustrated officers formed the Society of the Cincinnati, named after the ancient Roman soldier-farmer. Ostensibly organized as a charitable organization to provide support for former officers during the hard times that followed the war, its very existence posed something of an active, albeit murky, threat to civilian authority. Membership was inherited through primogeniture, and the society was one of the few nationwide organizations in America during the latter eighteenth century.

During the Constitutional Convention of 1787, the Society of the Cincinnati concurrently held its own convocation in Philadelphia, a coincidence that did not go unmarked among the constitutional delegates. Elbridge Gerry of Massachusetts expressed fear that organizations such as the society would allow men “. . . dispersed through the Union and acting in concert . . .” to conspire in skewing such democratic processes as the Electoral College.³² Over time, political discomfort regarding the society faded as civilian control and democratic processes gelled. Washington’s personal influence and impenetrable integrity greatly helped dispel many concerns.

During the Gilded Age following the Civil War, candidates for office at every level of government found success by “waving the bloody shirt,” a largely emotional appeal to voters based upon the triple traumas of secession, the Civil War, and Reconstruction. A common thread in this era of hyperactive stumping was the candidate’s military service, or lack thereof.

The largest association of Union veterans was the Grand Army of the Republic, or GAR. Throughout the 1880s and 1890s, the GAR grew in membership and influence, reaching its peak influence during the 1888 presidential contest between the incumbent, Democrat Grover Cleveland, and Republican Benjamin Harrison. Cleveland, bereft of military service during the Civil War, had won a squeaker of an election in 1884 against Republican and fellow nonveteran James G. Blaine. As President, Cleveland had vetoed numerous veterans’ pension requests, most of them undeniably spurious. Nonetheless, advocates for the aging veterans and widows rallied behind the Republican candidate Harrison, who, although largely unqualified for high office, was a Civil War veteran brevetted to brigadier during Sherman’s March to the Sea. Throughout the election campaign of 1888, GAR encampments and conventions were openly vociferous, drum-thumping, and

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band-playing Republican campaign rallies. This public support from the GAR was critical to Harrison's success in key northern states and resulted in an electoral victory, despite narrowly losing the popular vote.³³ Veterans' support four years later could not overcome Harrison's lackluster presidency, however, and Cleveland returned to office in 1892.

More recently, the Swift Boat Veterans for Truth became a controversial organization, both in terms of its effectiveness and as a microcosm of the ability of such groups to circumvent the restrictions of campaign finance laws. The group mounted a devastating attack on 2004 candidate John Kerry's Vietnam service record. Chaired by a retired admiral and made up of approximately 250 Navy Patrol Craft Fast (PCF) Vietnam veterans, the group attacked the legitimacy of Kerry's awards and his post-service anti-war activities.

These political organizations are referred to as "527" organizations, because they are organized under section 527 of the Internal Revenue Code, 26 U.S.C. § 527. They are supposed to exist primarily to influence the selection of an individual to political office and may engage in such activities as get-out-the-vote drives or issue-based advertisements,³⁴ but they "cannot expressly advocate for the election or defeat of a particular candidate."³⁵ These organizations are tax-exempt, not required to register with the Federal Election Commission, and permitted to raise and spend what is commonly referred to as "soft" money, i.e., money unregulated by finance campaign laws.³⁶ Both Democratic and Republican 527 groups broke fundraising records during the Bush-Kerry presidential race, bringing in more than \$277 million.³⁷

Endorsements by Retired Flag Officers

The increasingly frequent public endorsement of presidential candidates by senior military officers is a disturbing movement that will only exacerbate the gradual decline of the military's political neutrality. Some trace this modern trend to General P. X. Kelley's 1988 co-chairmanship of Veterans for Bush, followed by Admiral William Crowe's 1992 endorsement of then-candidate Bill Clinton.³⁸ By the 2000 election, the Republicans had solicited endorsements from senior retired officers in an effort to secure the military vote.³⁹

Within the military community, there is no consensus of opinion concerning the propriety of public endorsements by retired senior officers. In response to the endorsements of George W. Bush for President in 2000, one retired Army colonel posited, “A retired four-star general represents the institution that produced him and by definition should remain apolitical.” A retired Marine lieutenant general took a more forceful position: “A senior officer should realize that by lending his name or title, he or she is being ‘used’ by a politician [T]o lend one’s name and title to a political campaign is a form of prostitution.”⁴⁰ One critic of such endorsements pointed out “that four-stars never really ‘retire’ but, like princes of the church, embody the core culture and collectively represent the military community as authoritatively as the active-duty leadership.”⁴¹

In contrast, several senior retired military officers argue that once they leave active duty they, like any other citizen, are free to participate in partisan politics. In his memoirs, Admiral Crowe justified his endorsement of Clinton, opining that once a professional military officer “leaves active service, he is then completely free to express his opinion in any legitimate fashion and to participate fully in the country’s political life.”⁴² Taking a passionate position on the matter in a letter published in *The Wall Street Journal*, retired Army General John Shalikashvili, who spoke at the Democratic National Convention and endorsed Senator John Kerry for President, reinforced the political neutrality of the active military but defended the “responsible” participation of retired military officers in the political process as “a responsibility to our nation that is both honorable and consistent with their military service.”⁴³

Potentially Adverse Ramifications

There certainly is significant value to individual participation in the political process by retired senior military officers. Cautions and risks become apparent, however, when retired officers inject themselves into partisan politics by citing their military status while endorsing candidates. As an institutional norm, political neutrality is essential to the military’s ability to survive in its present form. When retired military officers publicly enter the political fray through endorsements or other forms of involvement, they trigger several concerns that the military as an institution should not take lightly.

Political Rivals

The possibility that today’s senior military officer may be feared as tomorrow’s political rival or public critic can affect the relationship between the civilian leadership and the military. As noted earlier, President Polk’s se-

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lection of a military commander during the Mexican-American War may have been influenced by such considerations. Additionally, historian Lewis Sorley raised the theory that in 1967 President Lyndon B. Johnson delayed General William Westmoreland's return to the United States from Vietnam because LBJ feared that the general had presidential ambitions. According to Sorley, General Bruce Palmer opined that Westmoreland "was bitten by the presidential bug" and was viewed as a "political threat." "They wouldn't want Westy back in the US under those circumstances," Palmer said.⁴⁴

Civilian political leadership may distrust and fear its senior military advisers as possible political threats, impeding a free flow of confidential information and candor. More disturbing, the incumbent political leadership may choose its senior military advisers based on their political leanings and future party affiliation, rather than on their military experience and quality of advice.

MacArthur was widely viewed as having political aspirations as early as the 1948 presidential election. So concerned was Truman that MacArthur would run against him that he met with then-General Eisenhower in July 1947 and offered to run as Eisenhower's vice presidential running mate should MacArthur seek the Republican nomination.⁴⁵ Further, MacArthur reportedly viewed the issue of Taiwan as not only a military matter but also as a "weapon in domestic politics."⁴⁶ In January 1950, MacArthur's headquarters released a confidential State Department briefing paper forecasting the imminent conquest of the island in an effort to embarrass the Truman Administration and to politically assist Republicans in Congress.⁴⁷

Effect on the Active Force

Public endorsements of presidential candidates by senior retired officers carry the potential of legitimizing the spread of partisan politics within the active-duty force. As one academic warned, "The captains and sergeants get the impression that although more discretion is allowed retirees than active-duty soldiers, there's nothing wrong with a military person articulating partisan views."⁴⁸ Ironically, one rationale offered by retired Admiral William Crowe for his endorsement of then-candidate Bill Clinton for the presidency was to "explode the myth" that "nobody in the American military was a Democrat . . ."⁴⁹ When high-level retired military officers lend their

title, rank, and prestige to a political candidate or party, a ripple effect may occur in the active-duty ranks, an effect that potentially encourages partisan politics within the armed forces and further erodes the traditional professional military ethic.

Effect on the American Public

The prospect of retired officers endorsing competing candidates runs the risk of undermining the confidence that the American public has in the military's political neutrality.⁵⁰ In Huntington's words, "Politics is beyond the scope of military competence, and the participation of military officers in politics undermines their professionalism, curtailing their professional competence, dividing the profession against itself, and substituting extraneous values for professional values."⁵¹ Further, the high esteem in which the American public has held the military in recent years may be endangered if active-duty senior leaders are affiliated with the politics of the civilian leadership they serve. "A politically conscious military appears to be just one more pressure group acting to advance its views and interests, not the neutral institution of the state and the embodiment of the nation," history professor Richard H. Kohn wrote.⁵²

Fixing the Problem

Existing law does not provide an adequate vehicle for addressing the issue. There are few legal restrictions on political endorsements of presidential candidates by retired senior military officers. The Hatch Act, 5 U.S.C. §§ 7324-26, which serves as the primary legal restriction on the political activities of federal employees, does not apply to the military.⁵³

The *Uniform Code of Military Justice* (UCMJ) provides only a theoretical limitation on the political activities of retired officers. Contrary to popular belief, most retired senior officers remain subject to military law, albeit they are rarely prosecuted for violations of the UCMJ.⁵⁴ Article 2 specifies that three categories of military retirees may be subject to court-martial: retired members of a regular component of the armed forces who are entitled to pay; retired members of a reserve component who are receiving hospitalization from an armed force; and members of the Fleet Reserve and Fleet Marine Corps Reserve.⁵⁵

Article 88 of the UCMJ prohibits contemptuous speech directed at the President and Vice President, both of whom could be running as presidential candidates. In theory, a retired officer, acting as such, who publicly criticizes a sitting President or Vice President in a contemptuous manner could be court-

martialed for such conduct. Courts-martial leveled against retirees are exceedingly rare, however, and only one reported court-martial of a retiree exists for contemptuous speech. It resulted in an acquittal. The case involved a retired Army musician who said in 1918 that President Woodrow Wilson and the government were “subservient to capitalists and ‘fools to think they can make a soldier out of a man in three months and an officer in six.’”⁵⁶

In addition, application of the UCMJ to retired officers in an attempt to curb their political speech would create significant First Amendment challenges. As the US Court of Appeals for the Ninth Circuit noted in *FEC v. Fulgatch*, 807 F.2d 857 (9th Circuit, 1987), “No right of expression is more important to our participatory democracy than political speech.” Congress might use legislation to create civilly enforceable restrictions specifically prohibiting retirees from using military titles in political settings, akin to prohibitions in the *Joint Ethics Regulations* and the “Standards of Ethical Conduct for Employees of the Executive Branch.”⁵⁷ Such a statutory restriction would not affect the ability of retired military officers to participate in the political process; it would merely place a constitutionally permissible limitation on the manner in which they participate.

In the near-term, the most effective restraint on political endorsements is the military itself. Before this problem can be fixed, however, the military as an institution has to first determine that the professional military ethic of political neutrality extends in at least some degree to the retired ranks in general, and in particular to political endorsements by retirees acting in their retired military capacity. To the extent that this problem can be corrected given the long-term, gradual erosion of the political neutrality of retired senior officers, and the apparent dearth of legal constraints, the solution for this institutional malady should come from the military itself. Retired officers who achieve flag rank have usually spent the majority of their adult professional lives in the armed forces. They have embraced the military’s culture and value system and should be sensitive and responsive to criticism leveled by institution representatives with respect to their behavior after retirement.

NOTES

1. Charles Babington, “Generals and Admirals Battle Perceptions of Kerry,” *The Washington Post*, 30 July 2004, A28.
2. E-mail to Nancy Davidson from General Wesley Clark, 26 June 2008.
3. Christina Bellantoni and Stephen Dinan, “Obama Defends His, McCain’s Patriotism,” *The Washington Times*, 1 July 2008, A1.
4. “Clark Downplays McCain’s Heroism,” *Washington Times.com*, 30 June 2008, <http://www.washington-times.com/news/2008/jun/30/clark-downplays-mccains-heroism/>.

5. James E. Foley, John D. Hart, and Ernie Webb, *West Point Sketch Book: USMA Bicentennial Edition* (Bloomington, Ind.: AuthorHouse, 2004), excerpted in "Propriety and Discipline under Thayer," *Assembly*, 63 (March/April 2005), 7.
6. Robert Wooster, *The Military and United States Indian Policy, 1865-1903* (Lincoln: Univ. of Nebraska Press, 1988), 109.
7. Samuel P. Huntington, *The Soldier and the State: The Theory and Politics of Civil-Military Relations* (Cambridge, Mass.: Belknap Press, 1957), 258.
8. Wooster, 75.
9. David M. Jordan, *Winfield Scott Hancock: A Soldier's Life* (Bloomington: Indiana Univ. Press, 1988), 226-28, 238-40, 300-306.
10. Huntington, *The Soldier and the State*, 161-62.
11. See Ed Cray, *General of the Army George C. Marshall, Soldier and Statesman* (New York: W. W. Norton, 1990), 145; see also Richard H. Kohn, "The Erosion of Civilian Control of the Military in the United States Today," *Naval War College Review*, 55 (Summer 2002), 27.
12. See Cray, 586.
13. Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 27.
14. Cray, 586.
15. *Ibid.*, 587.
16. *Ibid.*, 638.
17. Geoffrey Perret, *Eisenhower* (Holbrook, Mass.: Adams Media Corp., 1999), 396.
18. See Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 9, 26.
19. Department of Defense Directive (DODD) 1344.10, *Political Activities by Members of the Armed Forces*, 19 February 2008, 4.1.2.
20. Military Rule of Evidence 508, *Manual for Courts-Martial United States* (Washington: Joint Service Committee on Military Justice, 2008), III-33.
21. Brian Witte, "Naval Academy Graduates Get Civic Lesson from Gates," *The Washington Post*, 26 May 2007, A24.
22. Thom Shanker, "Military Chief Warns Troops about Politics," *The New York Times*, 26 May 2008, A10.
23. Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* (New York: Simon and Schuster, 2005), 666.
24. David C. Isby, "Rumsfeld and the Army: Transformation and Confrontation," *The Washington Times*, 16 June 2003, A19; see also Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 26; and Thomas E. Ricks, *Making the Corps* (New York: Scribner, 1997), 279.
25. Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 26; see also Ricks, *Making the Corps*, 280 and 282.
26. Ricks, *Making the Corps*, 283.
27. "Military Donations Seen Favoring Obama," *The Washington Times*, 15 August 2008, A7.
28. Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 26.
29. Isby, A19.
30. DODD 1344.10, 4.3.1.
31. Sally Quinn, "Gen. Jones and the Anonymous Long Knives," *The Washington Post*, 18 May 2009, A19.
32. David O. Stewart, *The Summer of 1787: The Men Who Invented the Constitution* (New York: Simon and Schuster, 2007), 27-28, 158-59.
33. James M. Perry, *Touched with Fire: Five Presidents and the Civil War Battles that Made Them* (New York: Public Affairs Press, 2003), 233, 168, 301-302.

34. 26 U.S.C. § 527(e); Thomas B. Edsall, "Campaign Finance Measure Approved," *The Washington Post*, 6 April 2006, A1.
35. Christian Berthelsen and Zachary Coile, "Republican 527's Gaining Ground," *The Washington Times*, 21 October 2004, A4.
36. Anthony Corrado et al., *The New Campaign Finance Sourcebook* (Washington: Brookings Institution Press, 2005), 7, 77.
37. Thomas B. Edsall and Derek Willis, "Fundraising Records Broken by Both Major Political Parties," *The Washington Post*, 3 December 2004, A7.
38. Richard H. Kohn, "General Elections: The Brass Shouldn't Do Endorsements," *The Washington Post*, 19 September 2000, A23; Richard H. Kohn, "Military Endorsements Harm National Interest," *The Washington Times*, 15 October 2000, B2.
39. Kohn, "The Erosion of Civilian Control of the Military in the United States Today," 26.
40. Thomas E. Ricks, "Bush's Brass Band Raises Some Questions," *The Washington Post*, 22 September 2000, A23.
41. Kohn, "General Elections," A23.
42. William J. Crowe, Jr., with David Chanoff, *The Line of Fire: From Washington to the Gulf, the Politics and Battles of the New Military* (New York: Simon and Schuster, 1993), 342.
43. John M. Shalikashvili, "Old Soldiers Don't Have to Fade Away," *The Wall Street Journal*, 17 August 2004, A19.
44. Lewis Sorley, *Honorable Warrior: Harold K. Johnson and the Ethics of Command* (Lawrence: Univ. Press of Kansas, 1998), 272-73.
45. Rebecca Dana and Peter Carlson, "Harry Truman's Forgotten Diary: 1947 Writings Offer Fresh Insight on the President," *The Washington Post*, 11 July 2003, A1, A10.
46. Callum A. MacDonald, *Korea, the War before Vietnam* (New York: The Free Press, 1987) 21.
47. *Ibid.*
48. Cohen, A12.
49. Crowe, 343.
50. Cohen, A12.
51. Samuel P. Huntington, "The Military Mind: Conservative Realism of the Professional Military Ethic," reprinted in Malham M. Wakin, ed., *War, Morality, and the Military Profession* (Boulder, Colo.: Westview Press, 1981), 37.
52. Kohn, "General Elections," A23.
53. Department of Defense (DOD) 5500.7-R, *Joint Ethics Regulation*, change 6, 23 March 2006, 6-202.
54. For a comprehensive discussion of court-martial jurisdiction over military retirees see, generally, J. Mackey Ives and Michael J. Davidson, "Court-Martial Jurisdiction over Retirees under Articles 2(4) and 2(6): Time to Lighten Up and Tighten Up," *Military Law Review*, 175 (March 2003), 1-85.
55. *Uniform Code of Military Justice*, article 2(a)(4)-(6), 2008.
56. Michael J. Davidson, "Contemptuous Speech against the President," *Army Lawyer* (July 1999), 1, 4, note 41.
57. DOD 5500.7-R, 2-304; 5 CFR § 2635.702(b).

The banning of political parties, the introduction of presidential forms of government, the dismissal of democratically elected leaders through the use of dubious constitutional amendments, and the suppression of alternative, radical forms of politics, are all routine features of military politics that have systematically undermined democracy in Pakistan.Â For one, the military has apparently decided to play a less "activist" role in politics, focusing instead on manipulating events in the background rather than engaging in overt interventions. It also appears to be the case that the military has slowly started to reevaluate its support for Islamist militants, recognising the disastrous effect they have had on Pakistan domestically.