



Letters to the Editor

Retired Top Brass Have Right to Freedom of Speech

Regarding the article “Top Brass Not Above the Law” in the May 24 issue, while I agree with General Brewster’s assertions that there has been some inappropriate conduct by some government officials who are currently in the military service or are retired military officers, I disagree with the author’s suggested solution to use the Uniform Code of Military Justice (UCMJ) as the method of correcting the problem. If any legal action is to be taken regarding the current government employees who participated in politically motivated verbal attacks on President Trump, it should be done under the Hatch Act, a federal law designed to restrict the use of federal employees for partisan political activities.

The author cites Article 88 of the UCMJ, noting that it authorizes courts-martial for officers who utter contemptuous words against the president or certain other high government officials. While the spirit of this statement is upright, the word “contemptuous” can be ambiguous. Fortunately, our country has not experienced what the German people experienced when the Nazis used similar wording to interpret the word “contemptuous” as meaning any criticism of Adolf Hitler or any member of the Nazi government.

In 1964, the Republican candidate for president, Barry Goldwater, was a major general in the Air Force Reserve. Fortunately, Goldwater was allowed to speak his mind as a candidate. Of course, the liberal news media gave little coverage of the issues he raised while much of the news coverage portrayed him as unfit to serve if he were elected. The Goldwater campaign attempted to point out many mistakes that were made in Washington, D.C., such as Castro’s rise to power in Cuba, the failed Bay of Pigs Invasion, the no-win policy in Vietnam, and others. Fortunately, Goldwater was not recalled to active duty to face a court-martial for making these criticisms.

There are credible beliefs that if Senator Robert A. Taft had won the Republican nomination for president in 1952, he would have selected retired General Douglas MacArthur as his running mate. Numerous other retired military officers have sought public office, including General Curtis E. LeMay, USAF (Ret.). I advocate for their freedom of speech whether I agree or disagree with their opinions.

The article mentions that retired members of the U.S. military can be recalled to active duty to face court-martial, even for non-duty related crimes committed off-base. The recent U.S. Supreme Court case of *Larrabee v. United States* affirmed that. Not all laws that are constitutional are necessarily wise, and I believe the *Larrabee* case should be used as an example for changing the UCMJ to ensure that civilian law and civilian courts should have sole jurisdiction over crimes that are committed off-base and are non-duty related, even if the defendants are retired military or military reservists. Whether or not the defendant was guilty is not the issue. This case was an expansion in the size and scope of the federal government in the area of local or state civilian law enforcement. In my opinion, this precedent could be a stepping-stone leading eventually to further court precedents allowing military police to be involved in civilian crime investigations based on the potential that one or more of the suspects might be eligible to be prosecuted under the UCMJ. This would be a step toward a national police force.

Whether one agrees or disagrees with anti-Trump statements, freedom of speech is not just for those with whom one agrees. If the statements made were partisan and were made by people who were employees of the federal government at that time, then any legal action should be done under the Hatch



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Act. For those who are reservists or retired military officers, I say let them have freedom of speech, let their critics also have freedom of speech, and let history judge all involved based on what they said, not by prosecuting them for having said it.

Kurt Hyde

Lt. Col., USAF (Ret.)

Sent via e-mail



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