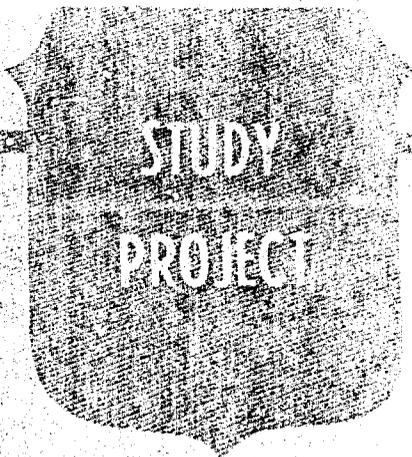


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CIVILIAN CONTROL OF THE MILITARY ESTABLISHMENT

BY

LIEUTENANT COLONEL KEVIN T. HANRETTA, PA

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CIVILIAN CONTROL OF THE MILITARY ESTABLISHMENT

An Individual Study Project
Intended for Publication

by

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INTRODUCTION

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The Constitution of the United States of America, which has guided us through more than two hundred years of change, provides a model that is still valid for emerging democracies. This Constitution changed the course of history by demonstrating that a nation could become a superpower while leaving the real power in the hands of the people. One of the most original and distinctive features of this Constitution was its incorporation of two doctrines that seem incompatible: separation of powers, and checks and balances. Civilian control of our nation's armed forces is one of those separations of powers that is rooted in the Constitution and considered absolutely necessary to preserve the American dream--life, liberty and the pursuit of happiness.

Throughout my military career, I have been repeatedly reminded of the apparent tensions inherent in this Constitutional separation of powers. As a member of the U.S. Armed Forces, I began my service by taking an oath of office to support and defend the Constitution of the United States. I did not give up my rights as a citizen; rather I accepted the additional responsibility of service to my country.

Today, twenty-one years later, now a student at the U.S. Army War College, I am reminded of my responsibilities to the Constitution by one of the stated missions of the Army War College: "The basic senior leader development mission is to provide the Army and the Nation with senior leaders who understand the role of the military in a democratic society."2 Implicit in this statement is the need for senior leaders, both civilian and military, to understand and enforce the democratic principle of "civilian control of the military establishment." This paper will focus on the history and viability of this democratic principle, with particular emphasis on the current State of the Union.

A SEED IS PLANTED

Civilian control was established in principle immediately following the Revolutionary War. The future Framers of the Constitution learned a valuable lesson about the potential power of a military establishment. With their over-riding concerns for peace and the formation of a central government under the Articles of Confederation, the individual needs of the members of the Army went unnoticed by our civilian leadership. A group of discontented officers in the Army, reacting desperately to a mixture of

motives--some, blatantly economic; some, born of residual notions of aristocratic privilege--called upon General George Washington to lead this new Nation (the Newburgh Conspiracy of 1783). He was a national hero and could have been a dictator; instead he defused the situation and pointed out this significant shortfall in the new government: the power to possess and control a military establishment.³ Although we can only speculate on the effects this incident had on the Founding Fathers, the majority realized that there was a need for a military because the emerging nation faced threats even then--the American Indians, the British in Canada, the Spanish in Louisiana and the possibility of internal disorder.⁴ As national security issues developed for the new United States, the Articles of Confederation simply were not strong enough to force the states into a strong central government. Many key civilian leaders gradually accepted the fact that a strong central government would be necessary to resolve these early national security issues.

CONSTITUTIONAL CONVENTION OF 1787

In May 1787, fifty-five able leaders assembled in Philadelphia's Independence Hall. Ultimately through a

miracle of cooperation and compromise, they created a document that, among its other achievements, established the basic tenet for civilian control of the military establishment. The Constitution empowered the government to possess and control a military, but authority over the military was scrupulously divided: The legislative branch had authority to raise and structure a military and to declare war; the executive branch had operational control of the military. The framers prayed that they had minimized the dangers that came with a standing army--the potential of a military takeover--by making everyone in government responsible for the defense of the Constitution.

In theory, power rested in the hands of the people, who would then choose their present and future leaders. It is interesting to note that twenty-three of the forty signers of the Constitution were veterans of the Revolutionary War. Through the power of the people "eleven became Senators, seven became Members of the House of Representatives, eight became Governors, two became Cabinet members, two became Ministers to foreign countries and one became President."⁵ Clearly, their military responsibilities and experiences helped prepare them for statecraft during this historic period. And they just as clearly advocated the principle of civilian control of the military. Finally, they lived their public lives and led the new nation in full accord with this democratic principle.

THE RIGHT TO CHANGE

The Constitution's robustness is a function of its designed flexibility. The Founding Fathers knew that no one fixed document could survive the rigors of time unless it could adapt. Thus adaptation began even in the course of ratification. To get enough states to support ratification, the first ten amendments guaranteeing personal liberties, known as the Bill of Rights, were added. On 19 September 1796, President George Washington summed up his observations on the right to change during his Farewell Address:

The basis of our political systems is the right of the people to make and alter their Constitutions of Government. But the Constitution which at any time exists, changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all."⁶

Years later, Abraham Lincoln expressed his views on this subject during his First Inaugural Address on 4 March 1861:

This country, with its institutions, belongs to the people who inhabit it. Whenever they shall grow weary of the existing Government, they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it.⁷

The right to change is thus part of our nation's historical character and for over 200 years the Constitution has continued to adapt to provide for the common defense. How well then has civilian control of the military adapted to

200 years of change? The Cold War years and the Goldwater Nichols Act provide important political and legislative challenges which serve to delineate the current status of this democratic principle.

THE COLD WAR YEARS

After World War II, the United States took on new responsibilities as a nuclear power and a world leader. This increased U.S. stature likewise affected the military: The atom bomb dramatically increased U.S. military power; further, because of the decline of European "powers", the U.S. assumed a new role on the world stage by establishing a policy of Forward Defense. To manage the military establishment more effectively and to create "one voice" in defense matters, the Congress and President Truman established the Department of Defense and the Joint Chiefs of Staff under provisions of the National Security Act of 1947. Our civilian leaders recognized the new demands for tight linkage between the president's political policies and military strategy; correspondingly, there was less tolerance for individual military leaders or even services doing their own thing. Truman, in firing General Douglas MacArthur, reaffirmed civilian control and set an historic precedent.

Then another soldier-statesman, President Eisenhower, reaffirmed civilian control when he gave the Secretary of Defense supreme power over the Department of Defense--both civilian and military. Both presidents did more than just keep the military under control, they made it clear that military strategy had to be based on the president's political policies.⁸

During the late 1960's, as the Congress and the American people became increasingly frustrated with the Vietnam conflict, President Johnson's lack of a clear political policy caused the Congress to reevaluate its own constitutional role. It must be said that many share the blame for what happened in Vietnam: the Congress, for not declaring the conflict in Vietnam a war; the President, for not formulating a national strategy with concise objectives; and the Department of Defense, for not developing an effective counterinsurgency strategy. Before Vietnam, the Congress only generally regulated the military through broad budgetary control. After Vietnam, Congressional practice reverted to micro-management of the military establishment through detailed review of the defense budget and through the War Powers Resolution of 1973. Although the President and the Department of Defense find this procedure frustrating, it nonetheless demonstrates and strengthens the Constitutional intent of civilian control of the military.

As some critics have analyzed the lessons learned from Vietnam--and fingers were pointed at both the civilian and military leadership for the final outcome of this conflict--one significant concept that emerged was the need for true joint operations within the military establishment. However, many challenges confronted "jointness" after Vietnam. So it was not until the Iran Rescue Mission in 1980 and Operation Urgent Fury to Grenada in 1983 that the lack of real jointness in the military was vividly revealed. The military establishment was either unwilling or unable to get its act together by itself. Consequently, Congress exercised its constitutional supremacy by intervening directly to restructure the Armed Forces in 1986 by passing the Goldwater-Nichols Department of Defense Reorganization Act (Public Law 99-433).

THE GOLDWATER-NICHOLS ACT

The clear thrust of this Act was to reorganize the Joint Chiefs of Staff structure:

The authority and responsibility of the Chairman, the operational field commanders and the civilian hierarchy have been increased. At first glance, these changes have been made at the expense of the Service Chiefs. Congressional unhappiness with the results of the acquisition effort of the Services is apparent in the language of the Act. Lastly, the

lack of credibility in Congress with the operational planning system motivated the attempts of the Congress to make it more realistic and in tune with budget/fiscal imperatives.9

Many critics would argue that Congress has gone too far with Public Law 99-433. Their rationales, though, differ. Some critics are concerned with what they see as a misguided single focus on jointness. Many disagree with the increased role of the Chairman of the Joint Chiefs of Staff. Some just don't like the idea of change, and some may have overlooked the imbedded issues of civilian control. Even so, Congress sought to reorganize the Department of Defense and strengthen civilian authority in that military establishment.

Critics must also recognize that civilian control has been consistent with military success. The conflict in Vietnam provides no warrant to disregard 200 years of American history. Despite all the controversy that surrounds the Goldwater-Nichols Act, this 1986 document prepared the way for our recent successful joint military operation, Operation Just Cause, launched in Panama on 20 December 1989.

THE MILITARY ESTABLISHMENT

The framers of the Constitution gave Congress the power to appropriate funds to raise armies and provide a navy, and gave the President the power to command those forces. This constitutional framework calls for close cooperation between the executive and legislative branches of government to ensure a strong national defense. The Department of Defense will respond to that call.¹⁰

Dick Cheney

As Secretary of Defense Dick Cheney asserted in his 1990 Annual Report to the President and the Congress, key senior leaders in the Department of Defense continue to uphold the principle of civilian control of the military. Every senior leader, both civilian and military, freely takes a solemn oath that is binding to this principle. Two hundred years of experience have shown that the present form of government under the Constitution works--and works well.

Some critics of the Goldwater-Nichols Act see a dangerous departure in making the Chairman of the Joint Chiefs of Staff the principal military adviser to the President, the National Security Council and the Secretary of Defense. The Chairman could thus have a significant influence, especially according to such critics as Robert Previdi:

By creating one military czar, this legislation [the Goldwater-Nichols Act] starts the nation down a road

which can lead to a situation where, at best, the country is run more and more by the military and, at worst, where the country actually becomes more vulnerable to a military takeover.¹¹

Concerns like Previdi's seem excessive, if not dramatic. For example, let's consider what the current Chairman, General Colin L. Powell, thinks about civilian control:

Over time, I have come more fully to appreciate the obligations and constraints imposed by this extraordinary document [the Constitution]. My oath was a sober and pointed reminder that no matter how grave the threat to security, our armed forces remain subject to the cardinal principles of the Constitution: the primacy of elected leadership and the rule of law.¹²

Additional evidence of adherence to the principle of civilian control by senior military leaders can be found in their unquestioning compliance with the current initiatives to draw down U.S. forces in Europe. During President Bush's "State of the Union" address on 31 January 1990, standing before the Congress and addressing the Nation, he praised the military for their dedication and professionalism. He expressed confidence in the civilian and military leadership that enforce civilian control of the military establishment. He specifically referred to his "senior military advisors" when he discussed reducing U.S. Armed Forces in Europe to 195,000 troops. This reduction has tremendous implications regarding the future size of the military establishment--an important but unpopular subject in the military.

Nevertheless, detailed plans are being developed by the military establishment to comply with this civilian leadership decision. The President, the Congress and the senior leaders in DOD, both civilian and military, understand the principle of civilian control of the military and are committed to its prolongation.

CONCLUSIONS

On 31 January 1990, as President George Bush addressed the Nation during his "State of the Union" speech, I listened as a citizen and as a soldier. The citizen listened for policy statements and assessments about the current and future health of the United States, whereas the soldier listened for evidence concerning the status of a long-standing principle: civilian control of the military establishment.

The United States has seen recent events in Europe radically change the world. Democracy is on the lips of millions of people who, just a short time ago, were afraid to dream of the day when freedom might become a reality. Proudly, the U.S. Constitution continues to provide a beacon, if not a model, for freedom and human rights around the world. A key feature of the success of this Constitution has been that senior leaders--both military and civilian--

understand and carry out their constitutional roles according to the dictates of civilian control of the military.

Current auspicious signs indicate that these healthy relationships are maturing still further. The ability of the United States to successfully use its military in Panama for Operation Just Cause provides recent evidence of the mature status of civilian control of the military: the national confidence to allow the existence and deployment of a well-trained, professionally led, adequately equipped, and appropriately applied military force.¹³ Moreover, the "joint" quality of this military operation is a tribute to the ability of the Constitutional system to enforce civilian directed change, despite traditional resistance within the individual services. Consequently, the Goldwater-Nichols Act is generally being implemented in the spirit in which it was created. The Department of Defense, the Congress and the President all seem committed to Public Law 99-433.

The future will indeed hold many challenges for our Nation's leadership. Even so, my research indicates that adherence to the principle of civilian control of the military will not be one of them. As Americans, we can rightly and confidently cherish the Constitution and firmly believe that civilian control of the military establishment is effective--and non-negotiable.

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