

The Rule of Law: Follow-up on Harry Truman and the Rule of Law

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There are recent articles which bear upon the influence of Harry Truman's national security state. In *Warrior Politics* by Professor Andrew J. Bocewich of Boston University in the May 2007 issue of the *Atlantic*, he writes,

With the rise of the national-security state after World War II, the Joint Chiefs of Staff emerged as big-league political operators. On issues ranging from desegregating the armed forces in the 1940s to the humanitarian interventions of the 1990s, the brass has stalled, dissembled, liberally reinterpreted directives to suit uniformed interests.... "[S]enior military officials," always anonymous, have mastered the art of the well-timed lead.

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Last year's "Generals' Revolt," with just-retired senior officers launching angry salvos at Donald Rumsfeld, attracted attention.... Yet...challenging the authority of the commander in chief—as Douglas MacArthur had done a half century ago in Korea, with disastrous results — remained beyond the pale. Attack an especially abrasive and dogmatic secretary of defense? Perhaps. Openly question the president? Never.

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As the Founders anticipated, democracy intent on maintaining a ... powerful military establishment confronts acute challenges. Deflecting those challenges today requires renewed attention to hallowed principles of civilian control. In recent decades, these principles had eroded badly. The irresponsible politicking of generals and admirals is one reason.... *Id.* at pp25-26

Thus, Professor Bocewich would only agree in part with the conclusion found in one of my questions that "the passage of the Defense Reorganization Bill of 1949 and Truman's recall of MacArthur have had a lasting-effect in establishing civilian control over the military."

In another article, *Manifest Destiny: A New Direction for America*, appearing in the February 15, 2007 issue of the *New York Review of Books*, William Pfaff cites Republican

security state – what is the effect on our democratic values if a president consistently has at his command a large standing military force? Does this nearly instant and constant availability over-balance the power of the presidential office? Truman could resolve to “let them have it” in Korea; Kennedy, Johnson and Nixon could readily dispatch enormous military resources to Viet Nam; Clinton could bomb Kosovo’s bridges, and Bush II had big time power available to him for Afghanistan and Iraq. Some of these involvements were probably moral and legal by international and American constitutional law. Others may be more questionable. Why not examine the rule of law issues presented? Why should the founding fathers have had all the fun.

As to whether we will have a con for each pro – unlikely. Anyone is free to write the *Federal Bar News* – or any author – to debate any position in any article. We welcome all.

Thanks Jerry.