

RELEASE IN PART
B6

From: sbwhoep [redacted]
Sent: Tuesday, June 22, 2010 4:13 PM
To: H
Subject: Pat Lang on McChrystal

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http://turcopolier.typepad.com/sic_sempertyrannis/2010/06/see-the-mcchrystal-post-on-30-may-2010.html

I am surprised that some of you don't understand what is at stake in McChrystal's offense. It is really quite simple. The principle has always been in this country that the federal military is an instrument of state policy. Our tradition is designed to prevent the emergence of "Caesarism" as a method of picking leaders or determining basic national policy. To maintain that principle MacArthur was fired on the advice of George Marshall. What McChrystal has done is to challenge President Obama. Everyone in the armed forces knows that. The notion has emerged in the COIN community that Obama is weak and can be bullied into removing the time restriction that he has placed on the Afghanistan COIN campaign plan that he adopted at their urging last year. MacArthur implicitly threatened both Roosevelt and Truman with the possibility that he would mobilize Republican politicians against them. The COIN crowd think that the same method can be used against this president. They have been willing to bet that he is no Truman and that Gates and Clinton do not have Marshall's strength. The effrontery of the deed in feeding this reporter all this material without placing it off the record is clearly a challenge to civilian control of policy.

McChrystal must be fired. Then he should be put on the retired list in his permanent grade with no end of career award. Then some thought should be given to the clear violation here of Article 88 of UCMJ.

Active duty military people are free to express their opinions to their superiors. They are not and should not be free to use the press against the civilian government.

Admiral Byng comes to mind. pl

http://turcopolier.typepad.com/sic_sempertyrannis/page/5/

http://en.wikipedia.org/wiki/Contempt_toward_officials

22 June 2010 in [Afghanistan, government](#) | [Permalink](#)

Article 88, UCMJ

"Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of Transportation, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct."

Elements.

- (1) That the accused was a commissioned officer of the United States armed forces;
- (2) That the accused used certain words against an official or legislature named in the article;
- (3) That by an act of the accused these words came to the knowledge of a person other than the accused; and
- (4) That the words used were contemptuous, either in themselves or by virtue of the circumstances under which they were used. Note: If the words were against a Governor or legislature, add the following element
- (5) That the accused was then present in the State, Territory, Commonwealth, or possession of the Governor or legislature concerned.

Explanation.

The official or legislature against whom the words are used must be occupying one of the offices or be one of the legislatures named in Article 88 at the time of the offense. Neither "Congress" nor "legislature" includes its members individually. "Governor" does not include "lieutenant governor." It is immaterial whether the words are used against the official in an official or private capacity. If not personally contemptuous, adverse criticism of one of the officials or legislatures named in the article in the course of a political discussion, even though emphatically expressed, may not be charged as a violation of the article.

Similarly, expressions of opinion made in a purely private conversation should not ordinarily be charged. Giving broad circulation to a written publication containing contemptuous words of the kind made punishable by this article, or the utterance of contemptuous words of this kind in the presence of military subordinates, aggravates the offense. The truth or falsity of the statements is immaterial.

Lesser included offense.

[Article 80](#)¹—attempts

Maximum punishment.

Dismissal, forfeiture of all pay and allowances, and confinement for 1 year.