



Detail of the Appointments Clause in the U.S. Constitution (Wikimedia Commons/U.S. National Archives and Records Administration)



by Michael Sean Winters

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October 9, 2024

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If Donald Trump regains the White House, we can anticipate him doing many terrible things. But there is only one thing that keeps me up at night: the Appointments Clause of the U.S. Constitution.

The Appointments Clause seems innocuous on its face. Article II, Section 2 of the U.S. Constitution [reads](#), in relevant part, that the president "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States."

The requirement of Senate confirmation is a perfect example of the "checks and balances" designed to frustrate any tyrannical excesses. We all learned about checks and balances when we took civics. But is today's Republican Party capable of exercising any check on Trump? Which senator would have the courage to say "no" to a reelected Donald Trump?

Every president is entitled to name his or her own Cabinet officials. This amounts to assembling his or her own team. We can talk about potential Supreme Court appointments another time. What is worrying is that this power to nominate "Officers of the United States" includes thousands of military officers as well. Just last month, the [Senate confirmed more than 6,000 military officers](#).

In my 37 years in Washington, I attended many conferences at which commissioned officers of the U.S. military were present, either giving talks or in the audience. At conferences focused on just war theory, military officers know the richness, and the difficulties, with that complex ethical tradition. They know well that no officer should obey an illegal or unconstitutional order.

They study many and varied threats to national security without concern for partisan sensibilities. For example, some of the most intelligent and comprehensive [warnings about climate change](#) have emerged from the Pentagon. Most of all, the officers were invariably intelligent and deeply committed to the U.S. Constitution.

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Enlisted men and women in the armed forces follow the orders of their officers. Pew Research Center [looked](#) at the political attitudes of veterans and found enlisted men and women tend to support Trump politically. [A GOVX survey](#) this summer showed overwhelming support for Trump among active duty military, first responders and other government workers. Anecdotally, most of my neighbors who served in the military have "Trump/Vance 2024" signs on their lawns.

In this free country of ours, soldiers and veterans can support whomever they want, provided their politics plays no role in their conduct as soldiers. It is the job of the officer corps to make sure that distinction is real.

So long as the officer corps refuses any unlawful commands, no one need worry. But what if Trump manages to place some sycophants like Michael Flynn atop the chain of command? Flynn served as national security adviser for 23 days back in 2017, before resigning because he had [failed to disclose](#) conversations with Russia's ambassador. Trump has [promised](#) to "bring him back."

Could Trump and his team find enough officers like Flynn who would not be too careful about constitutional norms, and get them through the Senate confirmation process?

Last year, Trump indicated he was thinking about [expanding the role](#) of the military in domestic affairs, and sending them to quell crime waves in urban areas. Joseph Nunn, at the Brennan Center for Justice, told the Associated Press, "The principal constraint on the president's use of the Insurrection Act is basically political, that presidents don't want to be the guy who sent tanks rolling down Main Street."

Should he win in November, it is hard to imagine Trump being constrained by such norms.

The possibility of the U.S. military becoming embroiled in domestic politics, or breaking apart into two camps, one loyal to the Constitution and the other to Trump, is too horrible to contemplate. The idea of Trump trying to affect a coup is even worse.

This is what keeps me up at night.

This story appears in the **Election 2024** feature series. [View the full series.](#)