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SPECIAL TRUST AND CONFIDENCE
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It is sometimes said that a military officer is the repository of "special trust and confidence." The purpose of this paper is to arrive at a defensible understanding of that concept. I will do so by examining three possible approaches to elucidating the concept of special trust and confidence, arguing that each of these approaches is decisively flawed, then proposing a conception which I believe to be well formed.

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To anyone who has ever attended an appointment or promotion ceremony for an officer in the Armed Forces the words "special trust and confidence" are familiar ones. At those times we are reminded that the constituting responsibility of the social office of American military officer is to be worthy of said "special trust and confidence." Because of the importance and fundamental nature of that common charge, we should certainly have a clear understanding of what it is that we have been tasked to do, yet the exact nature of that charge is not immediately apparent. If pressed to explain this constituting notion, most officers would probably first attempt to place the phrase in context: "The President of the United States has reposed special trust and confidence in the patriotism, valor, fidelity, and abilities of [the officer being promoted]" (Officer's Guide, 3). But how are

we to perceive each of those "bedrock" attributes we have been charged with special trust and confidence to instantiate and promote?

Some officers would no doubt view the trait of patriotism in a somewhat chauvinistic sense -- as military officers we are to physically defend the people and territories of the United States. Our patriotism resides in a professional ethic requiring us to fight as ably as we can to achieve the military goals we have been assigned. Much as a lawyer is professionally committed to providing the best defense possible for his client, regardless of the guilt or innocence of that client, a truly patriotic officer will set aside any individual judgement he might have about the moral worth of the mission assigned and do his best to accomplish that mission -- "my country, right or wrong." Indeed, despite having been relieved for opposing the policies of his civilian superiors, General MacArthur, in his celebrated address at West Point in 1962, counselled just such a view when he said:

Others will debate the controversial issues, national and international, which divide men's minds. But serene, calm, aloof, you stand as the Nation's war guardian....These great national problems are not for your professional participation or military solution. (3)

But much as we may take comfort in the belief that in our adversarial system of jurisprudence the guilty will not usually win their case; in some instances the truly guilty do prevail. In a strong sense, we feel this to be fundamentally unjust and immoral. Despite his professional

loyalty to the chain-of-command or to the soldiers of the unit or to achieving the mission or to oneself, realizing that all these concerns are hopefully mutually achievable but are not necessarily so? Some officers may understand fidelity in the (apparent) sense of the Marine Corps motto "semper fidelis"; namely, that we are to be true to the function of the Armed Forces and maintain ourselves and our units in a high state of psychological and physical readiness to win the wars of this nation.

Thus, an interim conclusion of my inquiry into the meaning of the phrase "special trust and confidence" is that examining that phrase in the context of officer appointment or promotion orders yields deeply ambiguous results. This avenue of inquiry does not help us to clearly understand our "marching orders."

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Perhaps we can elucidate the responsibilities of this "special trust and confidence" by examining a written delineation of our social office even more fundamental than promotion orders; namely, our oath of office as military officers. Upon commissioning, every officer gives express consent to a contract wherein he or she swears to

support and defend the Constitution of the United States against all enemies, foreign and domestic, [and to] bear true faith and allegiance to the same [Constitution]. (Officer's Guide, 5)

Pursuing this tack, our special trust and confidence is to support the tenets of the U.S. Constitution. However, I

ethic, we fault the defense lawyer for his complicity in allowing, indeed abetting, the one in the wrong to prevail. Analogously, some military officers may take rule-utilitarian comfort in the assumption that when they are ordered to inflict violence or to refrain from inflicting violence the nation will usually have just cause. Some officers believe that a professional ethic absolves them of responsibility for (successfully) defending an unjust cause. However, other officers view this nonjudgmental "hired gun" conception of patriotism as wrong. These officers see an inescapably moral component to patriotism. They believe they are acting patriotically only when, by their words and actions, they pursue policies and decisions which they believe truly promote "the American way of life." If they perceive a policy or decision to be wrong in the sense of being practically or morally harmful to "the American way of life," these officers believe it is their "special trust and confidence" to act against or around those policies and decisions. General MacArthur, General Singlaub, and Lieutenant Colonel North have all claimed to be patriots in precisely this regard.

How are we to understand *valor*? Some officers might conceive that word simply as an expectation that they will be physically courageous on the battlefield. Other officers might understand *valor* as possessing the trait of moral courage in their professional actions. The term *fidelity* is likewise deeply ambiguous. Are we to understand *fidelity* as

believe this approach fails to yield clear or adequate guidance.

First, it is sufficient for my purpose merely to note the deep and continuing disagreement concerning the nature and the normative limits of consent, even explicit consent, and the whole notion of contractarianism.¹ Many of the objections focus upon what some see as inherent vagueness or ambiguity in the notion of consent. Regarding limits, for example, many have argued that you simply cannot contract to do some things (e.g. acts which violate your moral autonomy ["enslave you"] or "compel" you to do inherently immoral things).

Secondly, I do not believe it is an unwarranted generalization to assert that most military officers have, at best, an incomplete knowledge of the Constitution or, at worst, a sketchy or distorted understanding of the tenets of that document.² This does not mean that officers are unaware of the limits of their military authority or of the functions of their office, both of which are (somewhat) circumscribed by the Constitution. I am contending that most officers do not consciously ground their moral decisions in the tenets of the Constitution. *A fortiori*, I am claiming that it is not even possible to adequately correct this epistemic failure.

Note first that the Constitution is not a complete or finished product, but an incomplete and evolving body of law and underlying moral precepts ("Political Responsibilities",

5). It is the business of individuals (the Supreme Court) who are ostensibly our most learned lawyers to divine the intent of the framers and to resolve apparent conflicts within "the law of the land." I do not believe that it is reasonable to assert that military officers could perform these interpretations.

Secondly, it is counter-intuitive to assert that officers make their moral judgements, particularly those made on the battlefield, by appealing to their oath of office. For these reasons, I believe an attempt to ground the "special trust and confidence" of our social office in the oath of office, and ultimately in the Constitution, furnishes inadequate guidance.

A third possible approach to explaining adequately the concept of special trust and confidence is to assert that an officer's ultimate responsibility is to defend the *national interests*. I believe many officers view their responsibility in just such practical, "concrete" terms. These officers construe their obligation to be the preservation of our territorial integrity and political sovereignty or, alternately, to the preservation of our capacity for (continued) self-determination. In yet more definitive terms, the obligation is to achieve and protect the conditions which make our existence as an independent people possible -- the retention of our natural assets for our use, the safe-guarding of oil supplies, waterways,

essential commercial ventures, spheres of influence, etc. Yet there is nothing in this essentially "Reasons of State" doctrine which is specifically American or moral.

Many officers would insist that there is a value-laden component to their obligation. These officers see their "special trust and confidence" to be the protection (to use an expression of Walzer's) of "our common [American] way of life" (53-58). More specifically, this means the defense of American values as well as the defense of American assets. Further, it seems to be an inconclusive task to definitively and exhaustively specify those values. Further still, officers embracing a value-laden conception of "our national interests" might well view their participation in a chauvinistic use of American military power as itself immoral. I think one (rhetorical) question will serve to adequately illustrate my contention that the notion of "national interests" is deeply ambiguous: "Did our participation in and conduct of the war in Vietnam truly promote our national interests?"

Hence, attempts to ground adequately the "special trust and confidence" of our social office in the attributes recognized in promotion ceremonies, in the oath of office, and in a concept of serving the national interests are all seriously flawed. Summarizing, these flaws are pernicious vagueness or ambiguity which permits undesirable interpretations, or incompleteness (i.e. a lack of adequate

guidance for decision-making), or simple unfamiliarity. Let me explain the last flaw more fully, because it points the way to a solution.

E. M. Adams has argued (persuasively, I think) that all well-formed social offices rest upon and are in harmony with the fundamental office of personhood, the constituting responsibility of which is "to define and to live a life of one's own that will pass muster under rational and moral criticism" (7). This means that we fulfill our responsibility as a person only when we attempt to do what we believe is morally and rationally right for ourselves. We form a world view and an understanding of ourselves as an individual moral agent in that world. As moral agents we have a continuing need to make moral decisions which satisfy us as rational individuals. Hence, we place a two-fold responsibility upon ourselves. First, our personal morality must be complete enough, familiar enough, and persuasive enough (to us) to actually imbue our decisions. Second, we must decide and act with consistency and conviction. Each moral decision must be integrated with all of the significant moral decisions we've previously made throughout our lifetime.

Because of these requirements, no significant vagueness or ambiguity or unfamiliarity can really be said to exist in our personal morality. This is not to say that we always act in accordance with our personal moral principles (the ancient problem of *akrasia*) or that our personal morality is

adequate to guide us through all situations with a clear conscience. My claim is that we have in our personal morality a deep and (to us) veridical conception of right and wrong, whereas our understanding of the stipulated ethics of a social office may be shallow or erroneous or contradictory. In this way personal morality is more fundamental than social morality.

One immediate objection to the contention I have just advanced (that personal morality must be viewed as more fundamental than social morality, even in the fulfillment of a social office) is the (well-founded) contention that we can only achieve a meaningful, significant personal morality *after* exposure to social mores. I am not contesting this view.³ My contention is that after we have formed a personal morality, this personal morality is more familiar, more complete, and ultimately more compelling than any social morality entailed by any particular social office.

Second, the ubiquitous, transcending, and unifying notion present within the American Constitution and the American way of life is the primacy we have traditionally afforded moral autonomy. Although we fault individuals for affirming moral stances we believe to be based upon insufficiently good or insincere reasons and we act to prevent individuals, however sincere, from causing harm to others without just cause, we nonetheless treat individuals who "break the rules" or "buck the system" for what they see as compelling moral reasons with a certain amount of

tolerance, respect, and leniency in most walks of American life. The motivating notion seems to be that individual moral dissent ought to be tolerated as a safeguard against institutional injustices or immoralities.

Bearing all this in mind, my proposal is that an officer's special trust and confidence ought to be based upon a single expectation and requirement: that he will maintain his moral autonomy. In other words, an officer's special trust and confidence is that he will not violate his moral convictions in the fulfillment of his social office. Affirming such a stance requires that the military tolerate moral dissent within the ranks. With several caveats (which I will shortly explain), that is the position I want to advocate.

This notion of tolerating moral dissent within the ranks is antithetical to what Samuel P. Huntington called "the supreme military value of obedience" (40). [I want to make it clear that Huntington was making a descriptive, empirical claim and *not* a prescriptive, normative claim]. Closely allied to this military notion of the virtue of (unfailing) obedience is the notion that self-sacrifice must always be considered a virtuous trait. As an instructor of moral philosophy at a military academy, when I place cadets into hypothetical battlefield situations, I often encounter a disturbing belief born of a misconception of the virtues of obedience and self-sacrifice. I believe this is a misconception which is shared, regrettably, by a number of

serving officers. The (ill-founded) belief is that officers are *required*, at times, to do things which they believe to be intrinsically immoral (that is, which their personal morality forbids) in order to achieve the "higher duty" of their social office -- to "accomplish the mission" or to "provide for the welfare of their soldiers." For example (say my cadets), even though they would feel a deontological constraint and "personally" think it was wrong to torture a prisoner to gain vital information, they are *required* by their social office to sacrifice their ("selfish") desire for "moral purity" to reduce the risk of death or wounding of their soldiers or to get the mission accomplished. My rebuttal is two-fold.

First, if we are serious about a moral dimension to officership, it is deeply inconsistent to claim to be maintaining or promoting American values while violating those same values. Second, if we sanction the notion that at any time there is a *requirement* in our social office for a "disappearing moral self," we place ourselves on a slippery slope with utter realism at the bottom and we echo the hollow "orders are orders" defense of Nuremburg. Hence, my first caveat is that we ought not to tolerate official conduct based upon a personal "morality" of realism (that is, actions guided by the belief that military violence is not subject to moral constraints).

As a second caveat, an officer's personal morality cannot be one of strict pacifism. It is an obvious and

specific function of a military officer to be morally and practically prepared to inflict and manage significant violence, or to support those efforts. To assume that social office while asserting a personal morality of pacifism is simply unconscionable.⁴

Third, I believe a personal morality of ethical egoism, even enlightened egoism, is incompatible with the social office of military officer because an officer is required by his office to act "for the common good," the (vague, but clearly collective) "national interests," and "the welfare of the soldiers."

As a last caveat, I believe it is a necessary requirement of this social office to act within at least one rule-utilitarian restriction to preserve the form and stability of our society; any *decisive* moral dissent must occur only within the ranks of the military and not contravene the decisions of the civil authorities. In other words, I am not saying that an officer, after dissenting, must ultimately still obey orders which he or she believes to be immoral. I am saying that an officer in such situations may resign or refuse to obey the order, but ought not to take positive actions contrary to his superior's orders.⁵

Despite my caveats upon acceptable personal moralities vis-a-vis the proper fulfillment of the social office of military officer, I have sketched an essentially libertarian view. In summary, I believe we should resist the

stipulation of directed or universal moral requirements of this social office which are significantly more stringent than the ones I have given. We *should* require our officers to be reflective about moral matters. In our military schools and institutions, we *should* discursively teach moral theory and delineate certain personal moralities (my caveats) as incompatible with our social office. However, we ought not to promote a professional ethic which is an exhaustive and overriding set of specific values. Such stipulations are likely to be poorly conceived or misconceived by the individual. Further, such stipulations do violence to the concept of the primacy of individual moral autonomy, a concept which I have argued is the guiding tenet and *raison d'être* of "the American way of life." If we are truly serious about the moral component of our social office, we must embrace a conception of "special trust and confidence" which requires, encourages, and permits morally-based dissent within the bounds I have described.

NOTES

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¹ See, for example, Hanna Pitkin, "Obligation and Consent - I," American Political Science Review 59 (December 1965); A. John Simmons, Moral Principles and Political Obligations, (Princeton, NJ: Princeton University Press, 1979); J.P. Flamenatz, Consent, Freedom, and Political Obligation, 2nd ed. (London, 1968).

² I owe this insight to a conversation I had with Major Gary Coleman, Dept. of English, USMA, in September 1988.

³ I am grateful to Major Wayne Mastin, USMA, for reminding me of this notion. I believe that it can be well substantiated by a digression into State of Nature arguments, themselves apparently grounded in the ancient Greek concept of *autarkeia*. See, for example, Charles Taylor, "Atomism," in Powers, Possessions, and Freedoms: Essays in Honor of C. B. Macpherson, ed. Alkis Kontos (Toronto University Press, 1979), 41.

⁴ Obviously, this restriction need not apply to certain military personnel such as doctors.

⁵ My thanks to CPT Jeff Whitman for pointing out the need for this clarification.

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