

# The Court Martial Option

"UNPRECEDENTED' IS NOT 'IMPOSSIBLE'"

by Joseph DeMaio, ©2021



(Aug. 23, 2021) — It starts.

The former commander of British forces in Afghanistan, retired Colonel Richard Kemp, [CBE](#), rejects the notion that the Goofball-in-Chief – formerly known as Joseph Robinette Biden, Jr. – should be impeached as a result of the unmitigated and calamitous disaster he has single-handedly precipitated in Afghanistan.

Again, this is what *always* happens when socialists, radical liberals – and, as now, an incompetent, mentally-compromised Democrat – are put in control of governmental power. Your faithful servant is tempted – hypothetically, of course – to ask all those who voted for the Goof in 2020: “Are you happy now?”..., but he will resist that temptation.

Instead of the long and questionably viable option of impeachment given the present composition of the House of Representatives – which could, and [should change](#) – Col. Kemp advocates that, because the Goof is the commander-in-chief of the U.S. military and because he has betrayed his nation, his military forces and tens of thousands of American citizens he has deliberately stranded behind Taliban enemy lines, he should be [court-martialed](#).

Wow. Strong indictment.

Col. Kemp last Sunday unequivocally stated to Fox News host Mark Levin: “I don’t say this lightly and I’ve never said it about anybody else – any other leader in this position. People have been talking about impeaching President Biden. I don’t believe President Biden should be impeached. He’s the commander-in-chief of the U.S. armed forces who’s just essentially surrendered to the Taliban: He shouldn’t be impeached. ***He should be court-martialed*** for betraying the United States of America and the United States armed forces.”

But is a court martial possible?

On the one hand, since the Constitution declares the president to be the “Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into actual Service of the United States...,” ([Art.2, § 2, Cl. 1](#)), a plausible argument can be made that the president is, in fact, as the “point of the spear” of the military armed forces, subject to court martial. There is apparently nothing in the Uniform Code of Military Justice (“[UCMJ](#)”) to specifically preclude or immunize a president from a court martial. And if that surmise is incorrect, your humble servant invites correction.

Moreover, [10 U.S.C. § 802](#) strongly indicates that a president is, as a matter of fact and law, a “person subject to this chapter,” *i.e.*, Chapter 47 of the UCMJ.

Specifically, 10 U.S.C. § 802(a)(1) provides that persons who are “subject to this chapter” (and thus, subject to court martial) include “members of a regular component of the armed forces, including... other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.” Accordingly, it seems beyond rational debate that the “commander-in-chief” of the armed forces is also its sole uber-supreme “member.”

In addition, [10 U.S.C. § 810](#) provides that a person “subject to this chapter” and “who is charged with an offense under this chapter may be ordered into arrest or confinement as the circumstances require.”

Translation, when the Goof was inaugurated on January 20, 2021 by Chief Justice John Roberts – thanks, judge... – he became the Goofball-in-Chief. At that moment, he was “called to duty” to serve as the commander-in-chief of the “armed forces,” a status that will persist until he is no longer the “commander-in-chief.” That language seems fairly clear: Joseph Robinette Biden, Jr. was, from January 20, 2021 until the present, “subject to” the chapter and sections of the chapter dealing with courts martial.

Not only is there seemingly no provision of the UCMJ precluding that conclusion, there is no U.S. Supreme Court decision – yet – prohibiting a president from being court martialled. The Republic is thus presented yet another “case of first impression” for the

Court, not unlike the presidential “natural born citizen” case the Court has thus far successfully evaded deciding.

This time, however, the Court had better not “evade” its constitutional duty to entertain what is rapidly becoming an existential threat to the survival of the Republic. Remember two things: (1) Obama’s [admonition](#) about the Goof; and (2) the loon has access to the nuclear missile [launch codes](#).

Today, we are witnessing the catastrophe of the Goof’s “prowess” in foreign relations unfold in Afghanistan, but who can predict when the next fireball and the ensuing fallout will explode?

Faithful P&E readers, your humble servant is no expert on the interstices of jurisdiction and procedures governing a general court martial. But as the Goof continues to ignore the growing calls for his resignation and the situation continues to spiral even farther out of control in Kabul – with [firefights](#) now breaking out and the Taliban spray paint-tagging for later “questioning” [Afghanis](#) leaving the U.S. Embassy who have helped the United States in the past – something *other* than the Goofball’s and his flaks’ prevarications over how well the evacuation of Americans is going and how “this is all Trump’s fault” must now come “front and center.” **Soon.**

If a court martial is not the solution, someone had better come up with an alternative **STAT**. Stated otherwise, listening to both current and retired military officers and enlisted personnel, forget about the chaos at the Kabul airport: the ingredients for – *gasp!*, the unthinkable – a military [coup d’état](#) could be sulking on the horizon in the District of Columbia. Even if a court martial were possible, it would, in effect, amount to a *de facto* or “soft” *coup d’état*. Outside of the 1964 fictional movie [Seven Days in May](#), that scenario, of course, would be unprecedented in the history of the Republic. But recall, Virginia, that “unprecedented” is not a synonym for “impossible.”

Bottom line, as recently noted [here](#), one way or another, the Goof must exit..., stage *left*.