

## U.S. Constitution bars a Powell Presidency

by Webster G. Tarpley

Amidst the recent commotion about a possible presidential campaign by Gen. Colin Powell (ret.), the general's wealthy backers appear to have overlooked the fact that their man is presently not eligible for the Presidency, or for any other federal office. The issue is the constitutional disability posed by General Powell's acceptance of a British title of nobility.

On Sept. 30, 1993, General Powell retired from active service in the U.S. Army. On the same day, Queen Elizabeth II of the United Kingdom announced that she wanted to award Powell with a knighthood, as the Associated Press reported. On Dec. 16, 1993, the *Baltimore Sun* and other papers carried a wire report that Powell "was made an Honorary Knight Commander of the Most Honorable Order of the Bath. . . . He received his insignia from Queen Elizabeth II at Buckingham Palace."

Powell describes his acceptance of this knighthood in his new autobiography, *My American Journey* (New York: Random House, 1995). He writes that going to London to see the queen was "one trip that was like the end of a Horatio Alger dime novel." Powell and his wife Alma went to Buckingham Palace on Dec. 15, 1993, and "were escorted into a waiting room where the queen's equerry explained the procedure. 'When you enter,' he instructed us, 'Her Majesty will come forward and present you with your KCB'—I was to be made a Knight Commander of the Order of the Bath" (p. 594). Powell also tells us of the ceremony at the palace: "As Queen Elizabeth came toward us, she passed by a table and casually swept up something. 'How nice to see you again, General and Mrs. Powell,' she said, then added, 'I'm pleased to give you this,' and handed me a box containing my decoration" (p. 595).

Even in his pride, Powell is uneasy about his knighthood. He wants us to know that there was no kow-tow and no accolade, in which the queen dubs the kneeling knight by tapping him on the shoulder with a sword: "Since I was an American, there would be no bending of the knee, no tap on the shoulder with the royal sword. And Alma did not have to master the curtsy" (p. 595). But it is very interesting that Powell, in contrast to press reports, says nothing at all about his knighthood being honorary. As he saw it, he was becoming a full-fledged knight. Powell says, "I treasure my family's British roots"—his parents were from Jamaica, and he admits that he likes to hear his wife addressed as "Lady Powell."

So it is clear that Powell willingly accepted the title of nobility offered to him by the foreign monarch Queen Elizabeth II. He vaunts his knighthood in many of his interviews, and he means to keep it.

### What the Constitution says

By these actions, Powell has disqualified himself for the Presidency (or for any other federal office) as a matter of clear constitutional law. In the Constitution we read as follows:

"No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them shall, without the Consent of the Congress accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State" (Article I, Section 9, Clause 8).

Incontestably, Powell has accepted and continues to hold precisely such a title of nobility from the Queen of England. The Order of the Bath was founded by King George I, a

Venetian puppet, in 1725. George I claimed to be reviving an order created in 1399, but there is controversy as to whether this order ever existed. The Order of the Bath has knights grand cross in both civilian and military sub-sections, plus civilian and military knights commanders and military and civil companions. It must be stressed that the KCB is not a military decoration like the Victoria Cross, but rather constitutes a chivalric order which confers nobility and the right to be called "Sir." There is no doubt that Powell has accepted and continues to retain exactly the kind of title that the Constitution intends to ban.

In the famous Gilbert and Sullivan operetta *HMS Pinfore*, the First Lord of the British Admiralty ("the ruler of the queen's nave") was "Sir Joseph Porter KCB," who held the same title of nobility Sir Colin holds today (to say nothing of the other obvious parallels between their careers).

The qualifications for the Presidency are enumerated in the Constitution's Article II, Section 1, Clause 4—he or she must be a natural born citizen at least 35 years old who has lived in the United States for at least 14 years. But the clause cited above has established for all those holding any "office of profit or trust," i.e., for all federal officers, the additional requirement that they not hold titles of nobility.

Whether the title is called "honorary" or not, whether or not there was kneeling and an accolade, whether the knight is to be addressed as "Sir," is all perfectly immaterial. The Constitution says expressly that "any present, Emolument, Office, or Title of any kind whatever" is meant (emphasis added). There can be no quibbles. In addition, the jewel-encrusted KCB medal Powell took home is itself a "present" of no minimal pecuniary value.

Some might say that Powell can run for the White House, but cannot serve. But his disability will come into play long before the Electoral College meets. General Powell will presumably want matching funds for the primaries from the Federal Election Commission. Later, if he were to get the nomination of a "major party," he would likely claim a share of the FEC presidential campaign fund. But if he does not meet the constitutional requirements for the Presidency, he can neither be certified as a candidate nor entitled to such disbursements of taxpayer funds.

### The legal consequences

If Congress were to vote to create an exception for General Powell, his disability would be instantly removed. Whether the needed votes can be found is, however, dubious. Short of this, Powell might renounce his title of nobility. It might also be necessary for the queen to deprive him of it, as she did, for example, in the case of Sir Anthony Blunt, when he was exposed as a KGB agent. But the courts might hold that a title of nobility is like a bribe—the legal consequences of having taken it are not removed by giving it back. Perhaps Sir Colin is stuck with his title, and with his disability.

At the Constitutional Convention, the ban on titles of



*Gen. Colin Powell testifies before the Senate Armed Services Committee in 1992. Under the U.S. Constitution, Sir Colin is simply not eligible to serve as President of the United States.*

nobility was proposed by C.C. Pinckney, and was unanimously approved without changes. Pinckney's text is similar to that embodied in the Articles of Confederation:

"... nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility" (Articles of Confederation, Article VI, in Henry Steele Commager [ed.], *Documents of American History* [New York: Appleton-Century-Crofts, 1949], p. 112).

The young American republic was fighting for its life against the oligarchical system represented by Britain. The following comment sheds light on the intent of the Founders: "In the twentieth century, the idea of a hereditary ruling elite using titles of nobility as a device for maintaining its authority seems a bit frivolous. To the founding generation, however, the threat was only too real. Moreover, the threat that a foreign potentate might suborn an American citizen or official by proffering such a title was also perceived as significant. The Articles of Confederation forbade the acceptance of foreign titles by any person holding federal or state office and forbade the granting of titles by the United States or by any state. The prohibitions were carried over into the Constitution, except that there is no longer a ban on state officers accepting foreign titles, and Congress may authorize acceptance of titles by federal officers. In both documents

titles of nobility are treated, along with gifts and offices, as items of value that foreign governments might offer in exchange for favors, and Governor Edmund Randolph, at the Constitutional Convention, asserted that the provision was designed to guard against corruption” (article on “Titles of Nobility,” by Dennis J. Mahoney, in *Encyclopedia of the American Constitution* [New York: Macmillan, 1986], Vol. 4, p. 1,899).

### The case of John Paul Jones

During the Revolutionary War, John Paul Jones, the great naval hero and founder of the U.S. Navy, was awarded a title of nobility, Chevalier of the Ordre du Merite Militaire, by King Louis XVI of France. At that time, “according to international etiquette, no officer could accept a decoration from a foreign prince without the consent of his own government.” The French government wrote to the President of the Continental Congress requesting such permission. On Feb. 27, 1781, the Continental Congress passed a resolution directing U.S. Ambassador to Paris Benjamin Franklin to “communicate to his Most Christian Majesty their high satisfaction” at the honor offered to Jones by Louis XVI, whose “offer of adorning Captain Jones with the cross of military merit is highly acceptable to Congress.”

Jones, as we see, waited for permission from Congress before taking the title of nobility, even though France was a vital wartime ally and Cornwallis’s surrender was months in the future. Two days later, Maryland ratified the Articles of Confederation, which thus became operative, making such congressional permission mandatory. Embroidering his tale, Jones wrote to Louis XVI in 1786 that Congress had deliberately postponed the ratification of the Articles of Confederation to allow him to accept the proffered title (see S.E. Morrison, *John Paul Jones*).

Supporters of the new Constitution frequently argued that this provision was a hallmark of a republic. Out of a multitude of arguments, we cite Madison in *The Federalist*: “Could any further proof be required of the republican complexion of this system, the most decisive one might be found in its absolute prohibition of titles of nobility, both under the Federal and State Governments; and in its express guarantee of the republican form to each of the latter” (Federalist 38).

### A stronger ban sought

But some felt that this provision, by allowing Congress to make exceptions for federal officeholders, and by removing the blanket ban on titles of nobility held by state officials, did not go far enough. This was the case in Massachusetts, which ratified the Constitution but also asked that the ban on titles of nobility be strengthened, saying: “. . . as it is the opinion of this Convention, that certain amendments and alterations in the said Constitution would remove the fears, and quiet the apprehensions, of many of the good people of

this commonwealth, and more effectually guard against an undue administration of the federal government, the Convention do therefore recommend that the following alterations and provisions be introduced into the said Constitution.” The last of these listed was:

“IX. Congress shall at no time consent that any person, holding an office of trust or profit under the United States, shall accept of a title of nobility, or any other title or office, from any king, prince, or foreign state” (Jonathan Elliot [ed.], *Debates in the Several State Conventions on the Adoption of the Federal Constitution* [Philadelphia: Lippincott, 1896], Vol. I, pp. 322-23). This was signed in Boston by John Hancock and William Cushing, on Feb. 7, 1788. John Hancock today would surely never sign for Sir Colin.

In the period of the War of 1812, when the British attempted to re-impose their imperial rule on our country, the American aversion to titles of nobility came into sharpest focus. Senator Reed of Maryland offered the following amendment to the Constitution:

“If any citizen of the United States shall accept, claim, receive, or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office, or emolument of any kind whatever from any emperor, king, prince, or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them or either of them” (Herman Ames [ed.], *The Proposed Amendments to the Constitution of the United States During the First Century of its History* [New York: Burt Franklin], p. 187).

This amendment passed both the U.S. Senate and House by more than the necessary two-thirds, and was approved by 12 states—just one short of the necessary three-fourths. In the deciding state, South Carolina, it passed the Senate but was determined by a congressional inquiry not to have passed the House. There was nevertheless a widespread belief that it had become the XIII Amendment, in which form it appeared in three decades of history books. If it had passed, Sir Colin would now be a man without a country.

So strong is the traditional American rejection of titles of nobility that even when the founders of the renegade Confederate States of America wrote their constitution, the ban had to be retained as a fig leaf:

“No title of nobility shall be granted by the Confederate States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emoluments, office, or title of any kind whatever, from any king, prince, or foreign state” (“The Constitution of the Confederate States of America, March 11, 1861,” in Henry Steele Commager [ed.], *Documents of American History* [New York: Appleton-Century-Crofts, 1949], p. 380). Thus, even a Confederate today would have to reject Sir Colin.

## Eisenhower and MacArthur

On May 27, 1943, the *Chicago Tribune* and other American papers carried an Associated Press report from London that King George VI had “bestowed upon Generals [Dwight] Eisenhower and [Douglas] MacArthur the honorary rank of knights grand cross of the order of the Bath, military division.” The *Tribune* wrote that “in the case of British citizens, these appointments would permit the generals’ use of the title ‘sir,’ but American citizens holding office are forbidden by the Constitution from accepting foreign titles without the Congress’s consent. The American generals will be presented with the insignia of the order, a 32-ounce gold collar with nine Albert crowns, but will not kneel before the king and be dubbed knights.”

On the following day, May 28, 1943, the *Chicago Tribune* commented on the knighthoods of MacArthur and Eisenhower with an editorial statement headlined “MacArthur’s Title.” Here it was stated:

“An order of knighthood has been conferred upon Generals MacArthur and Eisenhower. The fact that General Eisenhower has been included will not succeed in obscuring from Americans the purpose to render General MacArthur politically unavailable as a principal contender against Mr. Roosevelt for the Presidency in 1944. Mr. Roosevelt’s British colleague [a reference to Sir Winston Churchill] no doubt wants him returned to office and has done what he can to assure that result.

“Our Constitution forbids both the nation and the states to confer titles of nobility and Americans have always regarded this provision as a wise one. The citizens of this republic do not look kindly upon any of their fellows who receive titles, however humble, from foreign rulers. If MacArthur receives the title of knight, his standing in the eyes of the public may well be seriously affected, as was Pershing’s in similar circumstances. When people began jokingly to refer to him as Sir John, his goose was cooked. If he ever had any chance for the Presidency, it was washed out in the Bath.

“General MacArthur is commanding in Australia and cannot refuse the badge, for to do so would offend the Australians who have followed him with perfect loyalty. Moreover he has said, and we believe with complete sincerity, that he has no political ambitions. When the war is over he may feel differently about it. He cannot decline the title, but for his sake it is to be hoped that a majority in Congress will refuse it for him.”

Thus, for the *Chicago Tribune* of 1943, a British knighthood was a great political liability, practically the kiss of death.

This was of course the traditional American view. While it is true that this paper was arguing principally in political terms, there is at least a residue of awareness that Congress has the final say about knighthoods for generals. As we have seen, the Constitution empowers the Congress to make an

exception to the rule of no titles, which in this case might have been justified as a matter of military and strategic necessity in wartime—an argument that Sir Colin could not have made in that peacetime of December 1993 when he accepted his knighthood.

## Past violations don’t justify new ones

As far as is known, General MacArthur never went to London to accept his title from the king. So far, research has revealed no vote by Congress to authorize these knighthoods. General Eisenhower received his Order of the Bath on June 12, 1943 from the hands of King George VI, and also received the Order of Merit from George VI in June 1945. It appears that Eisenhower’s knighthood was never challenged when he successfully ran for the Presidency, even though it would have been an open and shut case. For Ike, Congress would most likely have made an exception. But times change, and any government official who today accepted a 32-ounce gold collar worth more than \$12,000 from a foreign ruler for any reason would have some explaining to do. Those were the heady days of the U.S.-U.K. “special relationship,” which has now been replaced by deepening and overt hostility. Sir Colin cannot hope to repeat the free ride on this issue enjoyed by Ike. And past constitutional violations do not justify new ones.

The General Pershing mentioned by the *Chicago Tribune* was, of course, the commander of the American expeditionary force in France in World War I, who received a knighthood in the field from King George V in August 1918, during the final German offensive of the war. The title was presented as part of a pitch by the king to have American soldiers used as replacements for British units, thus depriving the Americans of the chance to serve under their own national flag. Many thought the incompetent British generals, like Haig, wanted to use the Americans as cannon fodder. As it turned out, Pershing resisted these blandishments.

It appears that Pershing, although ambitious and eager for glory, was indeed profoundly embarrassed about his title, which was that of Grand Cross of the Order of the Bath. When one of Pershing’s friends, a certain Colonel Mott, remarked, half in jest, “Well, I suppose I can call you Sir John now,” Pershing “jumped on [him] like a tiger” (Richard O’Connor, *Black Jack Pershing* [Garden City: Doubleday, 1961], p. 275). At about the same time, Pershing received a letter from his father-in-law, U.S. Sen. Francis Warren, in which Warren began with “My dear Sir John!” Pershing wrote back: “Please have the goodness to forget it. . . . Such things . . . are undemocratic and un-American and run off my back like water off a duck” (*Pershing: General of the Armies*, p. 257).

*EIR has requested that General Powell give us his views on this matter, and we will publish his response.*