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# Canadian Military Law

By Brigadier W. J. LAWSON, *Judge Advocate General of the Canadian Forces*

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Military law and its administration in the armed forces of the United Kingdom, the United States and Canada has, since the conclusion of the Second World War, been the subject of considerable inquiry. In both the United Kingdom and the United States commissions have been set up to investigate the subject and they have made comprehensive reports. Although no formal inquiry has taken place in Canada, the matter has been under careful study by the Government and in the Department of National Defence. As the result of these inquiries, there has been or will be enacted in all three countries legislation materially changing the administration of military law.

The new Canadian legislation is The National Defence Act, which was enacted during the first session of Parliament in 1950. The purpose of this article is to examine briefly the history of military law and its place in the general law and to examine the National Defence Act in relation to them.

Canadian Military Law is that part of the law of Canada that applies to persons serving in or with the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force. The ordinary law that applies to all citizens applies to the members of the forces also, but by joining the forces they subject themselves to additional legal liabilities and disabilities and acquire certain additional rights. These additional liabilities and additional rights are prescribed in

the special code of law that is called military law.

In order to have discipline and organization in an armed service, it is essential that there be a special code of law prescribing that certain acts or neglects that are not offences under the ordinary law shall be offences under the special code and treating acts that may be minor offences under ordinary law as major offences. Many examples of offences of this nature can be found in Canadian military law. One of the most jealously guarded rights of the ordinary citizen is the right to refuse to work, that is, to strike in a peaceful manner, but a strike under military law is mutiny, the punishment for which, in certain circumstances, is death. Again, a fundamental right enjoyed by every Canadian citizen is the right to leave his employment at any time, subject only to a civil liability for breach of contract, but for a soldier to leave his employment with no intention of returning to it is desertion, which, in certain circumstances, may be punished by imprisonment for life. Mutiny and desertion are examples of new offences created by military law. An example of an offence regarded by the civil law as minor and by military law as serious is the act of striking a person. For one man to strike another a blow causing no actual bodily harm is in civil law a common assault, but for a soldier to strike his superior or for an officer to strike a soldier is, under military law, a serious offence involving a heavy punishment.

## *History of Military Law*

Military law, as we know it today,

did not exist as a permanent part of the law of England until 1689. Before that date, military law was not enforceable in Britain in time of peace. It was, however, a part of the royal prerogative to issue what were called "Articles of War for the government of His Majesty's forces", but this prerogative could only be exercised in time of war or in respect of troops serving out of the country. It was, therefore, impossible for the King to maintain a standing army in England in time of peace. As soon as the war came to an end or the troops returned to England, the power to discipline the army disappeared. If a man deserted, he could not be punished for his desertion; if he struck a superior officer, he had to be brought before a civil court on a charge of common assault. Under these conditions, it was impossible to keep the army together. It is of interest to note that one of the causes that led to the revolution under Cromwell was the attempt by Charles I to extend the royal prerogative to the issuance of such Articles of War in England in time of peace.

Some of the old Articles of War are extremely interesting and many of the present provisions of the Army Act of the United Kingdom and of the new Canadian National Defence Act are forecast in them. The earliest Articles of which we have any record are those issued by Richard I to his Crusaders. Most of the offences dealt with in Richard's Articles are prescribed as offences in the National Defence Act, but the punishments for them are no longer barbarous. For instance, Richard dealt with the serious military offence of stealing from a comrade by providing that if one

of his crusaders was guilty of this crime, his head was to be shaven and over it was to be poured a pot of boiling pitch. He was then to be put ashore at the next port, where his decorations would be self-explanatory and would enable him and his crime to be known to all men.

In 1689 the first Mutiny Act was passed. It is only from that date that there existed a permanent code of military law making it possible for the King to maintain a standing army in England in time of peace. In addition to the Mutiny Act the King could still exercise his prerogative to issue Articles of War. This dual system of military law persisted until 1803, when the royal prerogative was merged into an act of Parliament known as the Army Act and a system was developed that persists to this day, that is, an act of Parliament governing each of the services and establishing a code of military law applicable both in peace and war.

A code of law is ineffective unless there are courts charged with the duty of enforcing it. It has therefore been necessary from the earliest times to have military courts to enforce military law. Such a court was first set up at the time of William the Conqueror. It was known as the Court of Chivalry. In addition to administering military law, it had jurisdiction over matters of honour, armourial bearings and other matters of that nature. Its members were the two highest military officials in the land, the Lord High Constable and the Earl Marshal. The Lord High Constable was the Chief General of the King, equivalent to the Chief of Staff of a modern service, and the Earl Marshal was the fore-runner of

the present Adjutant-General. The court came to be known as the Court of the Constable and Marshal and it is from the Marshal that courts martial derive their name. The Court of Chivalry existed until 1521 when the office of Lord High Constable was discontinued, its incumbent, the Duke of Buckingham, having been beheaded by Henry VIII. Subsequently, military law was administered by what might be called a permanent court martial appointed by the King to accompany the army and to administer law each time Articles of War were issued. From this basis our present system of courts martial in the army and air force has been developed.

Naval law goes back to the time of Richard I, who laid down a code of law to govern a fleet raised by him for a crusade. There was in early times no fixed code of naval law. For each expedition the Lord High Admiral or the Commander-in-Chief issued regulations for the punishment of offences and the maintenance of discipline. These were characterized by the considerable summary powers of commanding officers and the severity of the punishments prescribed. No formal provision seems to have been made for courts martial, but councils of war appear to have been contemplated to advise the commander in connection with serious offences and it is probably out of these bodies that naval courts martial grew. The Royal Navy, as a regular force, dates from the time of Henry VII, but it was not until the Long Parliament that an attempt was made to codify the naval disciplinary system. In 1648 ordinances were enacted authorizing the Lord High Admiral and his coun-

cil of war to inflict punishment "according to the Civil Laws, Law Martial and Customs of the Sea". In 1653, provision was made for councils of war of captains or other officers attended by a judge advocate to try members of the navy and army at sea who had offended against the Articles of War. In 1661 Articles of War were passed by Parliament laying down a code of laws for the enforcement of discipline in the navy. This Act, for the first time, referred to a naval court as a court martial. The naval code, which had been amended on several occasions since 1661, was consolidated in 1749. In 1880 an act, which may be considered as the first edition of the present Naval Discipline Act, was passed. This legislation retained the principal features of the 1749 Act, but modified the severity of some of the punishments to conform with the civil law.

When the Royal Air Force was formed at the conclusion of the First World War, the Air Force Act was passed by the British Parliament. It is in practically the same terms as the Army Act and applies to the Royal Air Force the same code of service law as applies to the army.

Throughout their history, the people of England have taken great care to ensure that the armed services should never take control of the civil government, as has happened so often in other countries. Such care was not considered necessary in the case of the navy since it was out of England. The Naval Discipline Act is, therefore, a permanent statute, but Army and Air Force Acts are only in force for one year, and if they were not renewed annually by Parliament, the whole system of military

The purpose of the legislation is far more than simply to consolidate existing defence measures. The purposes are:

(1) to include in one statute all legislation relating to the Department of National Defence and the Canadian forces;

(2) to have a single code of service discipline so that sailors, soldiers and airmen will be subject to the same law;

(3) to make all legislation applicable to service personnel Canadian legislation;

(4) to obtain uniformity in the administration of service justice;

(5) to provide a right of appeal from the findings and sentences of courts martial;

(6) to abolish field general courts martial;

(7) to provide for a new trial on the discovery of new evidence;

(8) to provide in the administration of the department more efficient and expeditious means for the transaction of routine business;

(9) to establish the position and functions of the chiefs of staff;

(10) to abolish, as obsolete, provisions for levee en masse and enrolment by ballot; and

(11) to authorize the employment of the regular forces to meet a national disaster, such as a major flood, and to permit the use of reserve forces for these purposes.

The National Defence Act represents some three years of study by officers of the Department and of the services. In drafting the new Act, advantage was taken of the investigations into service law that were conducted in the United Kingdom and United States, and many of the recommendations made by the investigators there were embodied in the Act.

The drafting of an entirely new and comprehensive bill such as the National Defence Act was an intricate and formidable task. It was un-

dertaken by a group of service legal officers under the supervision of the then Judge Advocate General, Brigadier R. J. Orde. This group was assisted by a senior officer of each of the services who was in a position to advise authoritatively on the various service considerations that arose during the preparation of the Bill. Meetings were held almost daily between the service advisers and the draftsmen over a period of many months. Every section of the new Bill was thoroughly discussed and, in many instances, drafted and re-drafted at these meetings. When the first draft was completed, the whole Bill was gone over by the draftsmen with senior counsel of the Department of Justice and further changes made. All provisions having financial implications were examined by the Department of Finance. The Minister, who is a lawyer with considerable experience in and a great knowledge of military law, carefully studied every section and made many valuable suggestions, as did also Colonel Hugues Lapointe, the present Parliamentary Assistant to the Minister of Veterans' Affairs, then Minister of National Defence, and Mr. C. M. Drury, the Deputy Minister.

The Bill, having been drafted into final form, was introduced in the Senate by the Minister on November 8th, 1949. This incident is of interest in that it was only the second occasion on which a Minister of the Crown who was not a member of the Senate appeared on the floor of the Senate to introduce a government bill. The Bill was referred by the Senate to a standing committee of experienced Senators. This committee examined the Bill clause by clause and made

many useful suggestions for its improvement.

The Bill was passed by the Senate, but it was not possible to get it before the House at the 1949 session. It lapsed and had to be reintroduced at the first session of 1950. At that session it was introduced in the House of Commons and a Special Committee on National Defence, under the chairmanship of Mr. R. O. Campney, now Parliamentary Assistant to the Minister of National Defence, was set up to examine the Bill. This Committee was composed largely of members who had seen military service. It sat almost daily for several weeks and examined the Bill clause by clause. Many valuable amendments were suggested by the Committee and incorporated in the Bill. The Committee reported favourably on the Bill and it was passed by the House of Commons and the Senate, and on June 30th, 1950, received Royal Assent. Royal Assent did not bring the whole of the National Defence Act into effect, however, since section 251 of the Act provides that apart from the five sections mentioned in it, the Act should only come into force on the day or days to be fixed by proclamation of the Governor in Council. Sections 1, 211, 248, 249 and 250 came into force on the passing of the Act; sections 2 to 14 inclusive, 53, 54, 55, 190, 195, 205 to 210 inclusive, 212, 213, 214, 228, 229, 230, 238, 244, 246 and 247, on August 1st, 1950; sections 15 to 37 inclusive, 47 and 48, on August 7th, 1950; and sections 38, 42, 46, 50, 51, 52, 57, 61, 62, 126, 150, 154, 155, 156, 159, 161, 163, 166, 167, 182, 183, 199, 200, 215, 216, 231, to 237 and 236 to 243 inclusive, and 245, on February 1st, 1951. Before all the Act

could be brought into effect, the new King's Regulations required to implement it had to be written. These could not be prepared before the Act was passed because they were dependent upon the provisions of the Act. The Regulations have now been completed and it is expected that they will shortly be approved and issued to the forces. When this is done, the remainder of the National Defence Act will be proclaimed and the three Canadian forces will be wholly administered under this new Canadian statute and the new regulations.

#### *The National Defence Act*

The National Defence Act is an attempt to amalgamate in one statute all legislation relating to the Canadian Forces and to unify in so far as is possible, having regard to differing conditions of service, the fundamental organization, discipline and administration of the three armed services. The Act is divided into three divisions, thirteen parts and 251 sections. The first division deals with organization for defence, the second contains the Code of Service Discipline and the third the general rules respecting defence.

Part I deals with the Department of National Defence and replaces the Department of National Defence Act. In it provision is made for the organization of the Department, the appointment and powers of the Minister, the deputy ministers and other civilian employees, and the appointment of a judge advocate general. Probably the most interesting feature of this Part is the provision for additional ministers and deputy ministers in time of war or national emergency. Two possibilities are contemplated. One is the appointment of ad-

ditional Ministers of National Defence, all of whom would have equal status and among whom would be divided the powers vested in the Minister by the Act, probably on a service basis. This was the scheme adopted during the Second World War. The second possibility is the appointment of associate ministers who would be ministers of the Crown but subordinate to the Minister of National Defence. This is the system now in use in both the United Kingdom and the United States, in each of which there is a minister of defence with three subordinate ministers or secretaries, one in charge of each of the three services. By section 13, the Governor in Council and the Minister are given very wide powers to make regulations for the organization, training, discipline, efficiency, administration and good government of the forces, and generally for carrying the purposes and provisions of the Act into effect.

Part II of the Act deals with the constitution of the Canadian Forces. The Canadian Forces are defined as the naval, army and air forces of His Majesty raised by Canada. They consist of three services, the Royal Canadian Navy, the Canadian Army and the Royal Canadian Air Force. Each service is divided into two components, the regular or full-time service component, and the reserve or part-time service component. Provision is also made for the constitution in an emergency of an active service component in which the regular and reserve components, together with persons enlisted from civil life, could be placed. The numbers in each component are controlled by the Governor in Council. Section 19 provides for the appoint-

ment and powers of the chiefs of staff and a chairman of the chiefs of staff committee. The Chairman of the Chiefs of Staff Committee and the three chiefs of staff are the principal advisers to the Minister. The chairman is responsible for the co-ordination of the training and operations of the Canadian Forces. The chiefs of staff are charged with the control and administration of their respective services and are the medium through which the orders and instructions required to give effect to the decisions and directions of the government and of the Minister are issued to the forces. Provision is also made in this Part for the enlistment, promotion and release of personnel by the services and for the redress of grievances. The types of service which the forces may be called upon to perform are also dealt with. The first of these is active service. All members of the forces are liable to be called out on active service by the Governor in Council in the event of war, invasion, riot or insurrection, real or apprehended, or in consequence of any action taken by Canada under the United Nations Charter, the North Atlantic Treaty or any other similar instrument for collective defence. If any part of the forces is placed on active service, Parliament, if not in session, must be summoned to meet within ten days. The regular forces have been placed on active service under this section and in September last Parliament was called into special session to approve this and other action taken by the government to deal with the then existing military situation. In addition to their liability to be placed on active service, the regular forces are

at all times liable to perform any lawful duty and the reserve forces may be ordered to drill or train periodically and may be called out on full-time service to perform any naval, army or air force duty. A third type of service is also contemplated by the Act. This is service in a national disaster. In such an event the regular forces may be used at once and the reserve forces may be used if authorized by the Governor in Council.

Part III of the Act deals with the constitution and organization of the Defence Research Board. The Board is composed of a chairman, vice-chairman and representatives of the services, the Department, universities, industries and other research interests appointed by the Governor in Council. The Chairman of the Board is its chief executive officer and has a status equivalent to that of a chief of staff.

Part IV of the Act deals with the disciplinary jurisdiction of the services. The first section, 56, sets out the persons who are subject to the Code of Service Discipline. They include all officers and men, persons attached to the forces, persons accompanying the forces, spies, as well as service convicts and service prisoners notwithstanding that they may have been released from the service. From the civilian standpoint, the most interesting of these categories is "persons accompanying the forces." This category includes war correspondents and other persons who in fact live with the forces. Since, under the Interpretation Act, any expression including the male also includes the female, women in the forces are subject in all respects to the Code of Service Discipline. Provision is made,

however, permitting the Governor in Council to limit the application of the Code to women. From the standpoint of constitutional practice, section 62 is extremely interesting. In it is set out the well established principle of the supremacy of the civil over military courts. It provides that nothing in the Code of Service Discipline shall affect the jurisdiction of any civil court to try persons for any offence triable by that court, notwithstanding that such persons may have already been tried by a military court for the same offence.

Part V of the Act sets out the service offences and the punishments for them. The offences prescribed in this Part do not differ materially from the offences prescribed in the Naval Service Act, the Army Act and the Air Force Act. The wording has been modernized and complete uniformity achieved among the three services. By section 119 all civil criminal offences are made service offences and may be tried by service courts, but this does not affect the supremacy of the civil courts in any way. Punishments prescribed for all offences have been brought in line, so far as practicable, with punishments prescribed by the Criminal Code for similar offences. The distinction between punishments which may be awarded to officers and to men for various offences has been largely eliminated. Section 125 specifically provides that all defences available before a civil court shall be available to an accused before a military court.

Part VI of the Act deals with arrest and custody. Provision is made in the Part for the issue of warrants and for the appointment of service police. Under section 132 a person

who is held in custody for twenty-eight days without a summary trial having been held or a court martial having been ordered to assemble is entitled to petition the Minister to be freed from custody and in any event must be freed after a period of ninety days. It is hoped that this will eliminate the delays in trials that have caused some criticism of the administration of service justice in the past.

Part VII of the Act deals with service tribunals. Under it three classes of tribunals are set up, general courts martial, disciplinary courts martial (which replace the old district courts martial in the Army and Air Force and the disciplinary courts in the Navy) and commanding officers and superior commanders with power to try accused persons summarily. General courts martial have power to try any person subject to the Code of Service Discipline for any service offence and to impose any punishment prescribed by the Act. Disciplinary courts martial are limited by the Act in the punishments they can award and may be limited by regulations as to the persons they may try and the offences with which they may deal. Commanding officers have power to try men serving under their command and to award minor punishments, and superior commanders have power to try junior officers and warrant officers summarily and to award minor punishments. Provision is made for the appointment of judge advocates and for their powers, duties and functions. An interesting feature of the new Act is that findings and sentences of courts martial are no longer subject to confirmation. Findings and sentences are now to be pro-

nounced at the conclusion of the trial and the sentence commences to run immediately. They are still subject, however, to review by superior authorities in the service. An interesting new departure is made in section 163, which provides that a court martial may, at the request of the offender and in its discretion, take into consideration, for the purpose of sentence, other service offences similar in character to the one the offender has been found guilty of, which are admitted by him, and impose punishment in respect of those offences. If this is done, the offender is not liable to be tried again for the similar offences he has admitted.

Part VIII contains a number of provisions applicable to findings and sentences after trial. Provision is made here for quashing of findings and mitigation, commutation and remission of punishments by senior authorities.

Part IX is one of the most interesting parts of the Act. It provides for a right of appeal to a civilian court known as the Court Martial Appeal Board. This Board has recently been established under the chairmanship of the Honourable Mr. Justice Cameron of the Exchequer Court of Canada. The other members of the Board are Mr. D. K. MacTavish, Mr. B. M. Alexander, Mr. Louis Audette and Mr. Leonce Plante. Any person convicted by a court martial has a right to appeal to the Board on any question relating to the legality of all or any of the findings of the court or the legality of the whole or any part of the sentence. Counsel may appear before the Board to argue the appeal in the same manner as before any other

court of appeal. Any three members of the Board may hear an appeal. It is contemplated that in time of peace only one tribunal of the Board will be required for appeals, but that in war several tribunals will be set up at convenient places both in Canada and overseas so that appeals may be heard and disposed of speedily. On the hearing of an appeal the Board may set aside any or all findings or direct a new trial. If they find the sentence to be illegal they are not empowered to substitute a new sentence but must refer the proceedings to the Minister or such authority as he may appoint, who may substitute a new sentence. A further appeal is permitted to the Supreme Court of Canada, with leave of the Attorney General, where there has been dissent in the Board. The accused is also given the right to appeal against the severity of the sentence, but this appeal is dealt with by the service authorities, since it is considered that only they can appreciate the service considerations affecting the sentence. Apart altogether from the right to appeal to the Court Martial Appeal Board, the Judge Advocate General is charged with the duty of reviewing the proceedings of all courts martial, whether or not an appeal has been taken, and of advising the chiefs of staffs of the services as to what, if any action should be taken to quash the findings or to mitigate, commute or remit the sentence. The accused is also given the right to petition for a new trial on the ground that new evidence is available that was not available at his trial. The Judge Advocate General is also charged with the duty of examining such petitions

and referring them with his recommendations to the appropriate chief of staff, who may order a new trial.

Part X contains miscellaneous provisions of general application. Such matters as the conduct of witnesses and counsel at courts martial, disposal by civil authorities of deserters and absentees without leave, the imprisonment of service offenders in civil prisons, the conduct of manoeuvres, emergency powers in relation to property, salvage and limitation of civil liability are dealt with.

Part XI deals with the important subject of aid to the civil power. Very little change in substance is made from the provisions formerly contained in the Militia Act, which have proved satisfactory in the past. Liability to aid the civil power is however extended to both the air force and navy as well as the army, although it remains primarily an army responsibility and a matter for overall direction by the army authorities.

Part XII contains a number of sections which, since they establish civil offences that may be committed by any person in Canada in relation to the services, might appropriately be in the Criminal Code. They deal with false answers on enrolment, false medical certificates, personation, interruption of drill or training, hampering manoeuvres, assisting or harbouring deserters and other miscellaneous offences.

Part XIII contains certain unrelated special provisions which can ultimately be dropped from the Act. Section 250, which deals with the repeal of the existing legislation, provides that it may be repealed by proclamation of the Governor in Council. This provision was necessary because

the services have had to operate under by differing conditions of service, remain. The punishments prescribed for officers and men are the same and have been brought into line, in so far as practicable, with those prescribed by the Criminal Code.

The National Defence Act effects three major changes in Canadian military law. These are:

(1) Canada's armed forces will henceforth be governed entirely by Canadian law and not in part by law of the United Kingdom. In the future, when a Canadian soldier is accused of theft, the charge against him will be framed under the Criminal Code and not under the English Larceny Act, at his trial Canadian and not English rules of evidence will be applied and, if he is convicted, the sentence will be that prescribed by Canadian and not by English law. The National Defence Act provides a single source of statutory law relating to the armed forces and it will no longer be necessary to refer to several Canadian and United Kingdom statutes to ascertain the law.

(2) The same code of service discipline will apply to all servicemen irrespective of the service to which they belong or whether they are officers or men. Although in the past the army and air force have been subject to very similar codes, the naval code has differed materially. Under the National Defence Act only a few minor differences, necessitated

(3) The administration of military law will be subject to review by a civilian court of appeal and, in certain circumstances, by the Supreme Court of Canada. Lawyers will appreciate the salutary and far-reaching effect the right of appeal will have on the whole administration of military law.

It is likely that as the Canadian forces grow, as it seems they inevitably must under existing world conditions, the subject of military law will become of increasing interest to members of the legal profession in Canada. Many lawyers will be called upon to appear before courts martial and the Court Martial Appeal Board as counsel and to advise their clients on matters of military law. It is important that lawyers practising in this field should appreciate that military law is not, as many seem to think, a code of law separate and apart from the ordinary law. It is an integral part of the law of the land based on the same fundamental principals of justice and giving the same protection to an accused as our civil law.

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The 1952 annual meeting of the Association will be held in San Francisco during the week of the A. B. A. convention. The annual dinner will be held on the 16th of September and the annual business the day following. Col. Henry Clausen is Chairman of the committee on arrangements. More details will be announced in future issues of the Journal.

## The Annual Meeting

The annual dinner of the Association was held in New York City on September 18, 1951, at the Park Lane Hotel. The dinner was attended by over 300 members of the Association and their guests, and among the distinguished guests present were the Judges of the United States Court of Military Appeals, The Judge Advocates General of each of the Armed Forces, and The Judge Advocate General of the Canadian Armed Forces.

Col. Arthur Levitt, Chairman of the Committee on Arrangements, welcomed the members and their guests and turned over the speaker's gavel to Col. Reginald Field of the Armed Services Board of Contract Appeals, who served as toastmaster of the evening. Col. Field introduced the associate Judges of the United States Court of Military Appeals, Judge George W. Latimer, formerly of the Utah Supreme Court and Judge Paul W. Brosman, formerly Dean of Tulane University Law School, and then introduced Maj. Gen. E. M. Brannon, The Judge Advocate General of the Army.

General Brannon paid tribute to the young Judge Advocate General reserve officers who had been recalled to active duty during the present emergency. He voiced the hope that by the time the next annual dinner would occur in San Francisco in 1952, that we would have all of them back at their normal pursuits and that the world situation would greatly improve. This was the sentiment echoed by his appreciative audience.

Rear Admiral George L. Russell, The Judge Advocate General of the Navy, followed General Brannon at

the speaker's rostrum and observed that the earnest interest of the legal profession which had sparked a concentration of constructive thought concerning military justice problems, had revealed the system to be archaic and in many respects requiring revision. Fortunately this requirement had been met by the passage of the new Uniform Code of Military Justice. It was his impression that the new safeguards provided for in the new code represented a forward step in improving the administration of military justice. He concluded his remarks by stating that the Navy was indeed appreciative of the efforts of the Judge Advocates Association as an organization devoted to the welfare of the country and its military services.

Presenting his views next, Major General Reginald C. Harmon, The Judge Advocate General of the Air Force, drew the attention of the Association to the fact that the changes reflected in the new code are of great significance in that they show the dissatisfaction of the American people with previous military justice procedures and their desire for reform in this field. He expressed the belief that the new code could be made to accomplish its purpose by the working in unison of all the services and their officers charged with the administration of military justice. According to General Harmon, the Uniform Code was predicated on the achievement of two goals: (1) the enforcement of discipline in the field forces created to insure peace, and to assure victory by those forces in the event of war; and (2) the protection of the rights of the individual guaranteed him by our

traditional Constitutional safeguards. He asked that the Judge Advocates Association set as its threefold goal the following tasks: (1) a program whereby Judge Advocate General reserves could maintain their military fitness; (2) a program whereby the Association's membership would furnish advice to the services; and (3) a program of disseminating proper information to the American people in order to dispel misinformation concerning military justice procedure.

The Association's retiring President, Col. Alexander Pirnie of Utica, N. Y., urged the members to strengthen its fraternal bonds and increase its capacity as an association for service. He reminded the audience that the Association was born out of the thought that men of military-legal background could not and should not cease their service to their country with the doffing of the uniform. In thanking the Association for its splendid support of his administration during the past year, he expressed his own and the Board of Director's appreciation to Colonel Levitt and his dinner committee for arranging a splendid annual dinner and gave special praise to Major Richard H. Love, the Association's Executive Secretary, for his day to day devotion on behalf of the Association's welfare.

Returning to the speaker's rostrum by popular demand after his speaking appearance at last year's annual dinner in Washington, D. C., Brigadier W. J. Lawson, The Judge Advocate General of the Canadian Forces, expressed his appreciation of the work of the Association in keeping its membership apprised of military-legal administrative procedures and

changes, and announced plans for the formation of a Canadian Judge Advocate Association inspired by and modeled upon our own. He devoted the larger portion of his remarks to a brief resume of the history of Anglo-American military law. In dealing with the current changes in military law, Brigadier Lawson saw far-reaching significance in the fundamental changes adopted in recent United States legislation, which in turn has influenced similar changes in Canada and England. He stated that on September 1, 1951, the new Canadian National Defense Act went into effect establishing a single code of discipline for all Canadian Armed Services and that by this Act, for the first time in history, the Canadian Armed Services are to be governed under Canadian law and not under the law of England. The Canadian Act also established a Courts-Martial Appeal Board for the civilian review of military cases. He drew attention to the fact that the similarity of approaches to military justice problems in the United States and Canada demonstrates the fundamental unity of English speaking nations and the facility of two Governments to act in unison in the face of today's world problems.

The last speaker of the evening was the Honorable Robert Emmett Quinn, formerly the chief legal officer of the First Naval District in World War II, and formerly Governor of Rhode Island, and presently Chief Judge of the United States Court of Military Appeals. Chief Judge Quinn indicated that the Uniform Code represents, for the first time in American history, the proposition that there is but one law applying to all men in

military service. He established the credo of his court in the handling of appeals by stating that he and his associate judges recognized that discipline is a necessary element of training men for combat and that the recognition of this fundamental concept would be leavened by the court's attempt to give every serviceman substantial justice and at the same time affording the United States Government the same right.

Assisting Colonel Levitt in arranging the dinner were: Colonel Frederick F. Greenman, New York, Chairman, Guest of Honor Reception Committee; Captain Nat H. Hentel, New York, Publicity Committee Chairman; Captain Vardon E. Deixel, New York, Chairman, Reception Committee; and Captain Theodore Hetzler, Connecticut, Chairman, Hotel Arrangements Committee.

The annual business meeting of the Association was convened at the Park Lane Hotel at 4:00 p.m. on September 19th. Col. Pirnie, President, presided. Each of the Judge Advocates General advised the meeting of the plans and progress of their respective services in the present state of limited emergency. The report of the Board of Tellers was read and the following were announced elected and installed:

President—Col. John Ritchie, III, Virginia.

1st Vice President—Col. Oliver Bennett, Iowa.

2nd Vice President—Brig. Gen Bert E. Johnson, Oklahoma.

Secretary—Col. Thomas H. King, D. C.

Treasurer—Lt. Col. Edward B. Beale, Maryland.

Delegate to A. B. A.—Maj. Gen. Ernest M. Brannon, D. C.

*Board of Directors*

Navy: Capt. George Bains, Ala., Capt. Robert G. Burke, N. Y., Capt. S. B. D. Wood, Hawaii.

Army: Col. Joseph A. Avery, Va., Capt. Cable G. Ball, Ind., Brig. Gen. Ralph G. Boyd, Mass., Col. Howard A. Brundage, Ill., Lt. Col. Reginald Field, Va., Lt. Col. Edward F. Gallagher, D. C., Col. Clel Georgetta, Nev., Capt. Edward F. Huber, N. Y., Col. Arthur Levitt, N. Y., Brig. Gen. C. B. Mickelwait, Calif., Col. Joseph F. O'Connell, Mass., Maj. Gen. Franklin P. Shaw, Ky., Col. Frederick B. Wiener, D. C., Col. Edward H. Young, D. C.

Air Force:

Maj. Louis F. Alyea, Ill., Col. Paul W. Brosman, La., Maj. Gen. Reginald C. Harmon, Ill.

One of the highlights of the annual meeting was the debate and passage of a resolution made by Frederick B. Wiener, Washington, D. C., wherein it was resolved that this Association, collectively and individually, undertake an educational campaign to reply to the falsehoods of those who are currently defaming and subverting the disciplinary system of the Armed Forces, to the end that the American public and the American bar shall be informed regarding the principles and practices of military justice under the Uniform Code of Military Justice. The gravamen of the discussion seemed to center upon the use of the word "subverting" and whether or not the use of that word would imply that everyone who spoke critically of the system of military justice would be charged with subversion in its present connotation. The position that carried was that the word "subverting" was used in

its ordinary sense of undermining and that those who condemned military justice in practice during World War II were really condemning the civilian lawyer who participated in, directed, and controlled the military

judicial system during World War II.

NOTE: Capt. Nat. H. Hentel, JAGC-USAR, New York City, Chairman of the 1951 Annual Meeting Publicity Committee, wrote those parts of the above article relating to the annual dinner.

## Remarks of TJAG of the Army at the Annual Meeting

At the annual meeting of the Association on September 19, 1951, Maj. Gen. Ernest M. Brannon, The Judge Advocate General of the Army, made the following report:

One year ago, when I had the privilege of speaking to you at our meeting in Washington, the thought which I am sure was uppermost in all our minds was the impact of our partial mobilization, brought about by events in Korea, and the responsibilities that members of this organization would be called upon to assume in meeting the national emergency.

Today our meeting is held with the emergency still upon us, and I would like to discuss three subjects which I believe are of immediate interest to the members of this organization: (1) The several programs ordering Reserve officers into active military service during the past year, (2) The establishment of the Army Judge Advocate General's School at the University of Virginia in Charlottesville, and (3) A few comments on the effect of the Uniform Code of Military Justice on our Judge Advocate personnel requirements after almost four months of operation under the Code.

At the present time there are some 1140 officers, both of the Regular Army and civilian components now serving on extended active duty.

This figure may be broken down as follows:

- A. Regular Army officers 460
- B. Reserve officers 650

Which include about 341 company grade officers ordered involuntarily into the active military service

- C. National Guard officers 30

With respect to ordering Reserve officers into the active military service; since the start of the present emergency, the Department of the Army has authorized four programs for individual officers, in addition to officers ordered to duty with their units. The Judge Advocate General's Corps' allotment for the four programs total 435 officers. This quota is still limited to Reserve officers in the grades of Captain and Lieutenant and these officers are divided almost equally in number between these ranks. The officers have come from the pool of 3400 Reserve judge advocates which includes approximately 1000 Captains and 1100 Lieutenants. Some Reserve officers of the other arms and services who were ordered to duty in their various basic branch have applied for and been detailed in the Judge Advocate General's Corps. It would be remiss of me not to mention the tremendous contribution made by all the Reserve officers now on duty in the Judge Ad-

vocate General's Corps to the accomplishment of our mission in the Army. The limited number of Regular Army officers of the Corps could not do the job alone and the Reserve officers are serving with great credit and distinction wherever our troops are stationed throughout the world.

When I talked with you last year I mentioned the program of the Corps in placing outstanding graduates of the leading law schools on qualification tours leading to a Regular Army commission. I have been well pleased with the high qualities demonstrated by these young officers. My only regret is that the present authorized Regular Army strength does not permit the commissioning of any more of these youngsters. It is my expectation that some increases in Regular Army strength of the Judge Advocate General's Corps will be granted in the near future. My selection board continues to consider applications for these Regular Army qualification tours.

Many of you know that shortly after the Korean emergency arose steps were taken to retrain and refresh Reserve officers in military justice and military law at the Judge Advocate General's School. The school was first opened at South Post, Fort Myer, Virginia, a stone's throw from my office. The first several classes were of six weeks' duration and at present the school curriculum, which embraces comprehensive training in the field of military justice under the Uniform Code, is of eight weeks' duration. Each class contains about 50 student officers. During this spring arrangements were completed to reestablish the school upon the campus of the University of Virginia

at Charlottesville, Virginia. Two weeks ago, it was my pleasure to attend the opening of the Judge Advocate General's School and I am more than gratified with the admirable facilities for legal study which are available there. The student body for the first class at Charlottesville and the seventh class of the school is composed of 51 officers from the six Army areas and from my office in Washington. It is my objective that all Reserve officers reporting for duty, particularly Lieutenants, be given an opportunity to attend this school as soon as possible after arriving at their first station. I believe it will give these officers a solid background in the fundamentals of all phases of military law which will be most valuable to them in their future service in the Corps.

The Uniform Code of Military Justice has been in effect less than four months and I shall not attempt to draw any broad conclusions from such a short background of experience. I should like, however, to tell you something of the increased personnel requirements in my office which are directly related to our new responsibilities under the Code. As you undoubtedly know, each accused is entitled to counsel to represent him before the boards of review and the United States Court of Military Appeals. Of course, the Government has a corresponding opportunity. Experience to date indicates that roughly seventy per cent of the accused request representation by counsel in the appellate proceedings. The additional functions have required the establishment of a Government Appellate Division and a Defense Appellate Division. These divisions are currently

staffed by thirty officers. However, their workload may soon necessitate an increase in this number.

This month, too, witnessed an historic occasion: The argument of the first case before the United States Court of Military Appeals. It marked a significant step in the system of military justice established under the Code for the personnel of our armed forces.

You will all be interested in knowing that at the time the Uniform Code became operative on May 31 of this year my office urged that substantial changes be made in the strength of the judge advocate sec-

tions in all armies, corps and divisions. The Assistant Chief of Staff, G-3, with some persuasion, saw eye to eye with us on this subject and new tables of organization and equipment will provide for five rather than two judge advocates to a corps and fourteen rather than seven judge advocates to an army.

In this continuing emergency a source of deep satisfaction to me is to know that the members of this distinguished organization have always displayed a keen interest and appreciation of the operations and responsibilities of the Judge Advocate General's Corps.

## The Air JAG Speaks at the Annual Meeting

Maj. Gen. Reginald C. Harmon, The Judge Advocate General of the Air Force, spoke to the members assembled at the annual meeting, upon the progress of the Air Force legal department's reserve training program and officer procurement and recall programs. The remarks of General Harmon are as follows:

It is not without some apprehension that I come before you again today because I have burdened you with my presence for the past three years. However, you will have to blame your officers and the program committee for that.

I shall give you a brief review of the alleged progress of our reserve training program in the Legal Department of the Air Force. As you know, we use three types of training:

- a. The mobilization assignment program;
  - b. The voluntary air reserve training program; and
  - c. The extension course program.
- The mobilization assignment pro-

gram is continuing as in the past. A relatively small percentage of our reserve officers have mobilization assignments with judge advocate offices of our headquarters and field commands. They get their training by keeping prepared for specific jobs and by assisting in the preparation of training materials to be used in the voluntary air reserve training and extension course programs.

The voluntary air reserve training program has advanced a great deal during the past year, in that a great many new units have been organized throughout the country, and much additional training material has been furnished to them. We have found this to be a very useful method for the training of reserve officer-lawyers, due to the fact that they can meet and study together, thereby arousing an interest and creating an esprit de corps which would not be possible if they were studying alone.

Since I believe that the training of

the reserve component of our department is a very important element of my responsibility, I have personally visited and spoken to many of our voluntary training units throughout the United States. In every case, I have found their interest to be keen and their morale high, and I believe that the members of those units will be ready to take their regular places on the first team, if complete mobilization should ever be necessary. The extension course program is being developed as rapidly as possible, but much work is required to assemble the study materials in formal courses in order that they may be used effectively. However, much progress has been made in this regard, and I am sure that during the next year, we will have that program fully established for our Department in the Air Force.

I am contemplating one important change in our training program. In the past, it has been quite difficult to measure accurately the benefits being derived and advances being made by members of the voluntary units. I am not satisfied with simple attendance at meetings, so that the man who only attends meetings gets the same credit as the man who elaborately prepares for and actively participates in the discussions of those meetings. In attempting to find a measuring stick for this progress, I have tentatively decided that when the extension course program is fully prepared, it might be used as that standard of measurement, by requiring every member of the voluntary training units to take the correspondence courses and study them together at their meetings. Then the members would be given credits both

for retirement and promotion by virtue of the courses they completed, or graded, or furnished the instruction on, rather than because of the meetings they attended. They would get the credit for passing the course, rather than for attending the classes. Some time will be required to get this change completely worked out, but I believe it is one which we should ultimately plan.

As you know, within a month or so after my appointment three years ago, I discontinued the policy of sending regular officers and reserve officers on extended active duty to law school at Government expense in contemplation of their becoming members of this Department upon graduation. I did that for three reasons:

a. The cost to the government is too great. Depending upon the rank of the officer concerned, it costs, including salary and other expenses, for the period of three years, approximately twenty to twenty-five thousand dollars per student.

b. At graduation, the Government has a neophyte lawyer whose military grade and age is too far advanced for his professional legal capacity.

c. In many cases, a student goes to law school because it is a nice assignment, rather than because he has a fervent desire to become a lawyer.

Our procurement program as far as regular officers are concerned has consisted of taking young lawyers, mostly reserve officers, who have had wartime military experience, into the Air Force by competitive examination. We have been taking about twenty-five each six months, and they are usually taken from a competitive class of 160 to 185. With the exception of a few outstanding men, whose ages

may be up as high as 37, they are generally under the age of 32 when commissioned, and many of them have several years of practical experience.

This method of procurement of regular officers costs the Government nothing; yet the Air Force gets young officers whose age and military grade are commensurate with their legal capacity, and officers whose desire to become lawyers has been signified by their willingness to pay for their own legal education.

As to the reserve officer procurement program, we have followed the following policies:

a. The program has been cautious and conservative and has taken officers in limited numbers, because it is much easier to add new than it is to get rid of unneeded personnel.

b. Appointments have been made in proper grades and ages so as to leave room for expansion at the top, thereby retaining a healthful incentive for promotion.

c. We have tried to select men of outstanding ability, unimpeachable character, well balanced personality, and with families who would make good neighbors.

As a result of the application of these policies, we now have a reserve component which is large enough to meet our needs and small enough to allow for gradual expansion in the future. It is not just a mailing list, but we are attempting to have always a compact, well trained group of lawyers.

Now for a brief discussion of a subject I know is very close to your hearts. This is for those of you who happen to be reserve officers in the Air Force. As you know, it has been our policy to recall officers only on a

voluntary basis, and restrict it to those we were sure could carry the responsibility of their respective ranks and for whom we had specific jobs. In the absence of a greater and more rapid expansion of the Air Force than we now anticipate, or a change in the international situation, we do not contemplate any change in that policy. In fact the Air Force generally is now recalling officers on a voluntary basis, and at the present time, we have about forty volunteers for whom we have no requisitions.

The voluntary recall policy of our Department in the Air Force has been followed with two exceptions:

a. There have been a few mobilization assignees of field commands who have been recalled by their commanders for specific jobs for which they were specially qualified.

b. While other agencies of the Air Force were still recalling officers on an involuntary basis, some officer-lawyers were recalled as a result of other military specialties. For example, if a man's record showed that he was a navigator or an electronic specialist and had never transferred to The Judge Advocate General's Department, he might have been called in one of those non-legal specialties, and after his recall, have voluntarily transferred to our department.

Some reserve officer-lawyers of the Air Force did get on extended active duty involuntarily as a result of the foregoing through no fault of ours.

It has been said, that a disadvantage of calling officers on a voluntary basis is that the Government does not get officers with as much age and experience as would have been the case on an involuntary basis. This is true. Quite a large percentage of

our volunteers are officers of the younger ages who require considerable training. However, I believe it is a part of our job in an emergency like this to take these inexperienced officers and train them, rather than to disrupt the lives of older officers who are well-established in the profession. We have established a Judge Advocate General's School at the Air University for this purpose and are supplementing that with much on-the-job training. The disadvantage of having to train these young and inexperienced officers is compensated by the fact that we will have in the Air Force in a year or two a large group of well trained young officer-lawyers, as a result of both school training and actual experience, who will have great potential use to the Air Force for many years in the future. We are all growing older instead of younger, so it is necessary to train young officers and build up from the bottom. Another great advantage of calling officers on a voluntary basis is that the Government gets officers who want to be on extended active duty, who are not distracted by home ties, and, who, if given an interesting job will have high morale and great enthusiasm for their work.

As I told you last night, we have had in the past three years greater and more revolutionary changes in the Military Justice system than have occurred in the entire history of this

country, with the possible exception of those made immediately after World War I. In fairness, I think we should confess that some reform was in order. I believe that with proper administration all three systems under which we have operated during the past three years would provide a fair trial and more protection to the accused than is generally believed by the American public. This is where we have fallen down. We have failed to keep the public informed as to the true merits of our system. Let us not fail to keep them informed as to the administration of this new Uniform Code of Military Justice.

As is generally true with reforms, we cannot all agree that all of the changes were wise ones. If mistakes were made, the Code provides for an annual survey by the Judge Advocates General, the Court of Military Appeals, and the Secretaries, and for the making of recommendations to Congress, in order that those mistakes may be corrected. Every one of you, as reserve officers in the Legal Departments of the services, and even as citizens, has the duty to keep yourself informed as to how the new Code is being administered, and to carry that information to the people in your respective communities. Otherwise, this information will not be spread and ill-advised changes are liable to be made as a result of it. May we all join together to make this new system work.

## **Comments of Navy JAG at the Annual Meeting**

Rear Admiral George L. Russell, The Judge Advocate General of the Navy, attended the annual meeting of the Association and spoke briefly to the members concerning the legal

department of the Navy. He indicated that his office is rather small compared to that of the other services and that more than half of his law specialists are Naval Reserve law-

yers, a few of whom have served since World War II. Adm. Russell stated that he did not expect to recall any Naval Reserve lawyers involuntarily in the near future and that seventy-five per cent of those who had been recalled to active duty have indicated the desire to remain on extended active duty, thereby necessitating replacement of only twenty-five per cent of those officers. Of course, he indicated that the increased burdens of the office, together with this necessity of replacements for reservists completing their tour of duty, would make it necessary to recall more lawyers, but that the supply of volunteers in the Navy for legal billets appears fully adequate.

Adm. Russell indicated that the number of legal billets in the Navy appeared to be out of proportion with those of the other services, but said that the reason for this was that in the Navy, law functions are spread among the various divisions and departments of the Navy and not entirely under The Judge Advocate General.

Adm. Russell indicated that after World War II and upon the basis of past experience, the legal department of the Navy earmarked a certain number of law billets in the reserve

with preference given to the older men less capable for line duty because of age. This system was, of course, designed for total mobilization, but the experience of partial mobilization brought on by the Korean incident has brought to their attention the fact that the older lawyers being well established in private practice do not wish to be selected to serve, except upon a total mobilization, whereas on the other hand, the younger lawyers are very anxious to do so. Accordingly, a great number of volunteers among younger lawyers have been received and likewise in his procurement of officers, he has been able to exercise great selectivity, taking about one out of five volunteers. Adm. Russell stated that he feels the original plan for procuring reserve legal officers is a workable plan upon full mobilization although it did not work particularly well during the present emergency. Nonetheless, he stated the Navy has met its personnel problem as far as the legal department is concerned.

Adm. Russell assured the membership of his personal interest in the Association and suggested that our Navy strength in the coming year would be considerably increased.

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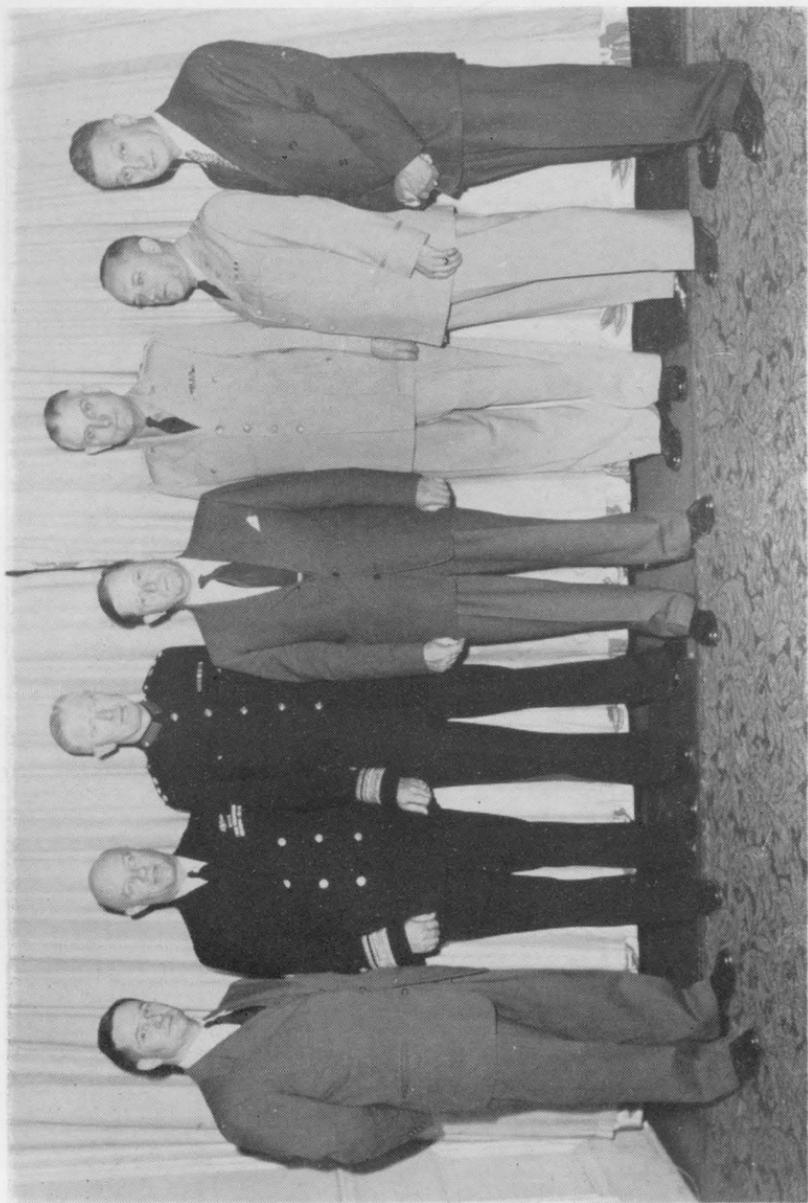
Your professional successes, important cases, new appointments, political successes, office removals, and new partnerships are all matters of interest to the other members of the Association who want to know "What The Members Are Doing." Use the Journal to make your announcements and disseminate news concerning yourself. Send to the Editor any such information that you wish to have published.



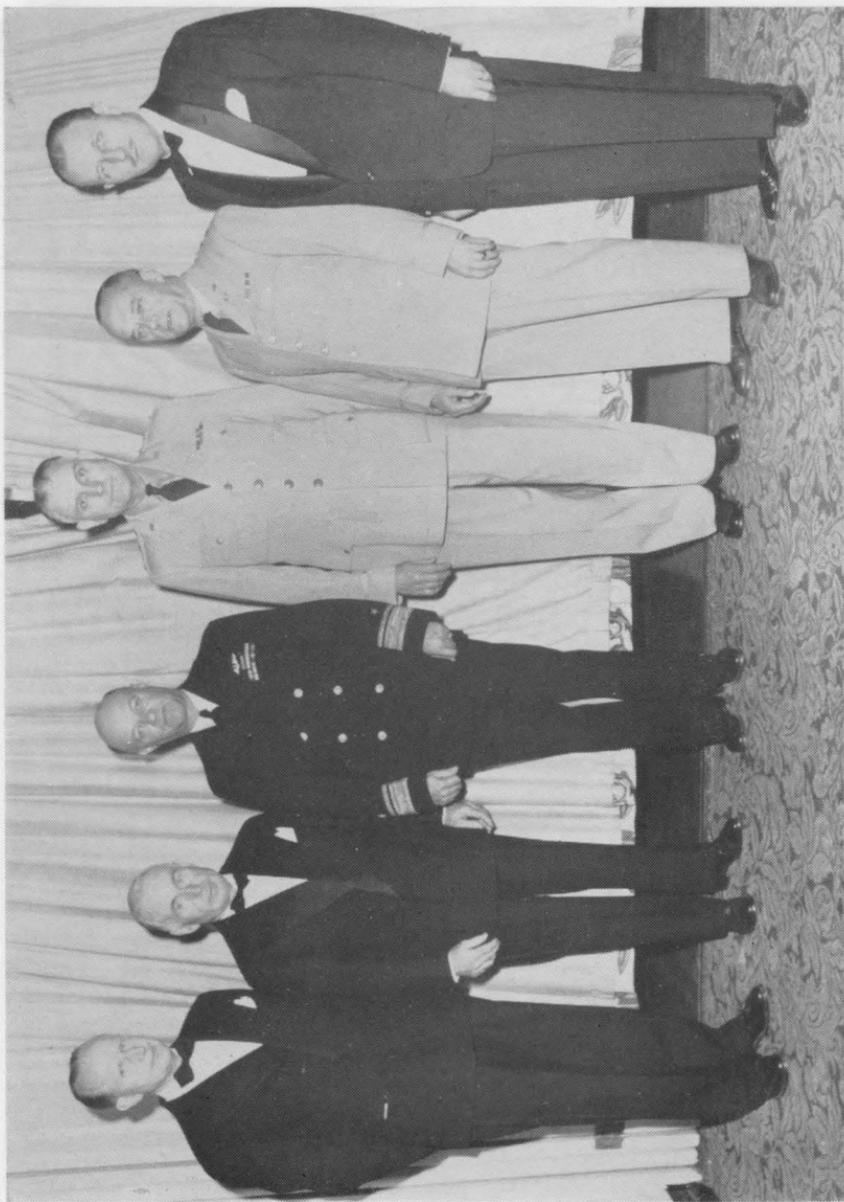
The President greets the U. S. Court of Military Appeals at the Annual Meeting; l. to r.. Col. Levitt, Col. Pirnie, Judge Latimer, Chief Judge Quinn, Judge Brosman.



The retiring President, Col. Alexander Pirnie, congratulates the President-elect, Col. John Ritchie, III.



At the Annual Meeting: 1. to r., Maj. Love, Executive Secretary, Adm. G. L. Russell, Brigadier W. J. Lawson, Col. Alexander Pirnie, President, Gen. Reginald C. Harman, Gen. E. M. Brannon, and Col. Arthur Levitt, Chairman of the Annual Meeting Committee.



The Judge Advocates General with the members of the Court of Military Appeals; l. to r., Judge Latimer, Chief Judge Quinn, Adm. Russell, Gen. Harmon, Gen. Brannon, Judge Brosman.

## "Magna Carta" For Reservists

By BRIG. GEN. E. A. EVANS

*Executive Director,  
Reserve Officers Association*

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What does the Armed Forces Reserve Bill mean to you as a Reserve Officer? The question is timely and appropriate for every officer possessing a reserve commission and this pending legislation has been likened to a "Magna Carta" for the citizen-reservist. Consequently, it is of paramount interest to all members of the Reserve Forces. The following presentation will endeavor to provide highlights of the bill.

The legislation furnishes clarification of many terms affecting the reserves such as active duty, active duty training, inactive duty training, partial mobilization, etc. In addition, it gives a clear definition of the mission of the reserve components and provides that within each armed force there shall be a Ready Reserve, a Standby Reserve and a Retired Reserve.

This bill provides that each member of the reserve components shall be in an active, inactive or retired status. Everyone in the Ready Reserve will be in an active status. The Standby Reserve is divided between the active reserve and inactive reserve inasmuch as there exists in the Standby Reserve an inactive status list, and all members of the reserve components who are on the inactive status list are in the inactive reserve; while all other members of the Standby Reserve are in the active reserve. Members of the Retired Reserve shall be in a retired status.

Members of the Ready Reserve are subject to call for extended active duty in time of war or in time of national emergency declared by Congress or proclaimed by the President. Members of the Standby Reserve can only be called to extended active duty in time of war or national emergency declared by Congress. Members of the Retired Reserve may, if qualified, be ordered to active duty only in time of war or national emergency declared by the Congress.

Any reservist in an active status on the effective date of the Act may be placed in the Ready Reserve with the following exceptions:

(a) those who have served in the armed forces of the United States for four years.

(b) those who have served in one or more of the reserve components for not less than eight years subsequent to September 2, 1945.

(An explanation of the September 2, 1945 date, as well as the eight-year requirement, is necessary. Under present law, the President of the United States has the right to call any member of the Reserve to active duty. The time limit on this right of the President to call all reservists to active duty expires September 2, 1953. With the law as it now stands, there can be no voluntary transfer to the Standby Reserve until after this limiting date has passed. This does not mean that members of the reserve components cannot and may not be placed in the Standby Reserve immediately following the effective date of the Act. It simply means that it is not mandatory on the part of the Department of Defense to place any reservist

in the Standby Reserve until after September 2, 1953.

(c) those reservists who have served on active duty for not less than a year subsequent to June 25, 1950.

☆☆☆

Members of the reserve components on an inactive status list will not be eligible for pay, promotion or retirement point credits.

Every reservist on the effective date of the Act shall retain active, inactive or retired status in the reserve components.

Each reserve component shall be divided into training categories and the training categories shall be the same for each Armed Force and shall be the same within the Ready Reserve and Standby Reserve.

The bill provides that each Department shall establish an adequate and equitable system for the promotion of members of the reserve components. It provides further that prior to February 1, 1952 the Secretary of Defense is directed to submit to the Congress adequate and equitable legislative recommendations for the promotion of the reserves which shall conform as nearly as practicable to the system for promotion of the regular members of the Armed Forces, including recommendations concerning date of rank, forced attrition, distribution in grades and constructive credit. (Note: The services are now working on this proposed legislation and representatives of National Headquarters of ROA are sitting-in with the Army, Navy and Air Force sections.)

In the future a person who has heretofore not held an appointment as a commissioned officer may not be so appointed in a grade higher than

major or lieutenant commander except upon the recommendation of a board of officers.

The bill provides that after the effective date of the Act, all appointments of reserve officers shall be for an indefinite term, but further provides that any officer may decline to have his current appointment continued for an indefinite term, if he so requests.

☆☆☆

Provision is made whereby all members of the reserve components, except members of the Retired Reserve, shall be given physical examinations at least once every four years.

The bill provides that any member of the active reserve may be ordered to duty for training purposes without his consent for a period not to exceed fifteen days annually.

A member of the reserve components ordered into the active military service of the United States is to be allowed a reasonable period of time between the date he is alerted and the date when he reports for duty. It further provides that this period shall be at least thirty days, unless military conditions do not permit.

The bill provides that during any expansion of the active Armed Forces it shall be the policy to utilize to the greatest practicable extent the services of the qualified and available officers of the reserve components *in all grades*. It further provides that where an expansion requires that units be ordered into military service the members of these units shall be ordered involuntary only with their units, but this shall not be interpreted as prohibiting the reassignment of personnel of such units after they have been placed on active duty.

Provision is made for members of the reserve components with their consent to be ordered to or retained on active duty. It is provided also that such reservists shall be ordered *in the grade and status* held by them in the Reserve.

Provisions have been made whereby members of the reserve components who voluntarily accept active duty may enter into a standard written agreement for periods of active duty up to five years. These agreements would provide that members shall not be released from active duty involuntarily by reason of a reduction in strength in the Armed Forces unless his release is in accordance with the recommendation of a board of officers, or for reasons other than a reduction in numerical strength without an opportunity to be heard by a board of officers prior to such release. The exceptions to the latter would be that he could be released from active duty pursuant to sentence from court martial, unexplained AWOL, etc. The written agreements would provide further that should any member be released from active duty involuntarily prior to the expiration of the contract he would be entitled to receive severance pay equal to one month's pay for each year remaining as the unexpired period of his agreement.

A provision makes it possible for members of the reserve components to be detailed or assigned to any duty authorized by law for officers or enlisted members of a regular component. As an example, this would allow reserve officers to be assigned as Professors of Military Science and Tactics (or equal status with Air and Navy) for ROTC units. The present

law requires that only regular officers can be so detailed. Many other restrictions against the use of reserve officers would be lifted under this provision.

The bill provides that during a period of partial mobilization the various Departments would continue to maintain mobilization forces to insure the continued organization and training of the reserve components not mobilized.

Except under special conditions a member of a reserve component serving on active duty in time of war or national emergency shall not be released from active duty except upon the approved recommendation of a board of officers.

Provisions have been made for uniform allowances consisting of an initial allowance of \$200 and a further sum of \$50 upon the completion of each period of four (4) years of satisfactory reserve service as described in the Reserved Retirement Law, and also provided that during this period of time at least twenty-eight days of active duty or active duty for training shall have been credited to the individual. Under certain circumstances and restrictions, officers who enter on active duty on or after June, 1950 will be entitled for each time of such entry or re-entry on active duty or active duty for training of more than ninety days duration to a further sum of \$100 as reimbursement for uniform and equipment.

☆☆☆

A change is made in the proposed bill to the Career Compensation act of 1949 which would allow enlisted reservists to receive rations in kind when instruction periods total eight or more hours in any one calendar

day.

Except under certain conditions, an officer of the reserve components who has completed three years of commissioned service shall not be discharged involuntarily or separated except pursuant to an approved recommendation of a board of officers.

The bill states as a policy that there shall be no discrimination between and among members of the regular and reserve components in the administration of laws applicable to both regulars and reserves, and further provides that prior to February 1, 1952, the Secretary of Defense will submit to Congress adequate and equitable legislative recommendations for equalization of benefits between and among regulars and reserves of the Armed Forces.

Provision is made that the Secretary of Defense and the Secretary of each military Department shall designate an Assistant Secretary who shall in addition to other duties, have the principal responsibility for supervision of all activities of the reserve components. The bill provides further that the Secretary of each military Department shall designate a general or flag officer who shall be directly responsible for reserve affairs.

The Reserve Forces Policy Board

is established, which board is to be the principal policy advisor to the Secretary of Defense on matters pertaining to the reserve components. The legislative establishment of the Reserve Forces Policy Board is not to be construed, however, to limit and modify the functions of the Reserve Policy Committees of the various Services.

It is required, that in the semi annual report of the Secretary of Defense, as presently required by law for submission to the Congress, a chapter shall be devoted to the status of reserve promotions.

Each Armed Force is required to maintain adequate and current personal records of each member of its reserve component.

The Secretary of Defense is directed to require complete and up-to-date dissemination of information of interest to the reserves to be made to all members of the reserve components and to the public in general.

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(Editor's Note: In reading the above comments, it should be kept in mind that the various items listed are the highlights of the bill and do not reflect all of the intimate details that affect the reserves. The bill has been passed by House of Representatives of the 82nd Congress, 1st Session and will be on the Senate calendar of the 2nd Session.)

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The Journal is your magazine, If you have any suggestions for its improvement or for future articles, please bring them to the attention of the Editor. We invite members of the Association to make contributions of articles for publication in the Journal. Publishability of any article submitted will be determined by the Editor with the advice of a committee of the Board of Directors composed of Lt. Col. Reginald Field, Col. William J. Hughes, Jr., Col. Charles L. Decker, USA, Capt. George Bains, USN, and Brig. General Herbert M. Kidner, USAF.

## Recent Decisions of the U. S. Court of Military Appeals

The United States Court of Military Appeals has, prior to December 1, 1951, handed down opinions in 19 cases. Nine of these cases were received for review by the Court on certification from the Judge Advocate General of the Navy, one on certification of the Judge Advocate General of the Air Force, and nine on petition of the accused, eight of which latter cases arose out of Army Courts Martial trials and one out of an Air Force Courts Martial. Boards of Review in these decisions have been reversed in 9 cases and affirmed in 6 cases. All reversals occurred in cases certified by the Judge Advocate General of the Navy. There were no reversals on petitions of the accused. The other four cases decided by the Court came up on the question of the jurisdiction of the Court to grant review and in those four cases the Court denied the petition for review. The opinions of the Court in these cases are on relatively simple questions of military law, but are particularly interesting in that they show the thinking of the members of the Court and also an effort by the Court to square away fundamental principles for the guidance of the future. Accordingly, the opinions are rich in dicta, although quite narrow in the fundamental questions ruled upon.

In *U. S. v. Mickey McCrary* (Case No. 4, decided November 8, 1951), the accused was shown to have left his station at Camp Stoneman, California, on October 23, 1950, and to have surrendered to the Air Police at Brookley Air Force Base, Alabama, on December 22, 1950. That was the extent of the evidence submitted from both sides. The accused was tried on the charge of desertion in violation

of A. W. 58. The only question was whether or not the facts were sufficient to sustain the conviction. The Board of Review held that they were, and the Judge Advocate General of the Air Force certified the case under Article 67 (b) (2) of UCMJ to the Court.

Each of the three judges wrote separate opinions. The opinion of Judge Latimer recited the well-known principles governing scope of review and then came to the fundamental question of whether or not there was sufficient evidence of the intent to desert. On the proven facts, above mentioned, the designation of the accused's assigned unit as shown in the charge sheet, the proximity of the station of that unit to the P. O. E. at San Francisco, and the current state of war in Korea, Judge Latimer concluded that the Trial Court could reasonably infer the intent to desert; and, since the determination by the Trial Court from the proven facts and inferences therefrom, fall within an area where reasonable men might differ in their conclusions, he held the appellate court would not be warranted in interfering with the findings. Therefore, he held there was substantial evidence to sustain the findings and affirmed the Board of Review. Judge Brosman concurred with Judge Latimer's conclusion that the findings were based upon substantial evidence; but expressed the opinion that all of the matters beyond the direct evidence in the trial should have been expressly found as facts based on the application of the doctrine of judicial notice; that is, that the intention to desert could be found from facts beyond the testimony in the trial if the Trial Court by judicial

notice found those facts from matters of common knowledge and from the matters set forth in the charge sheet.

Chief Judge Quinn dissented on the ground that the evidence in the case was insufficient as a matter of law to sustain a conviction of desertion. His position was that the only evidence in the case was that the accused left his squadron in California without leave and surrendered sixty days later in Alabama, there being nothing in the record concerning distance from Ports of Embarkation, the accused's unit being a replacement unit for overseas duty, or of any evidence of the accused's knowledge of these things. It was Chief Judge Quinn's opinion that there was no proof in the record justifying a finding of intent to desert. He further found that because the accused did not take the stand to explain his absence, it should not be used against him as proof of his intention to desert. Since it is the Government which has the burden of proving guilt of every element of the offense beyond reasonable doubt.

In *U. S. v. Marion Lucas* (Case No. 7, decided November 8, 1951), the accused was charged with having overstayed his leave, the offense having taken place prior to the effective date of the UCMJ, but the trial taking place after the date of the Code. The accused entered a plea of guilty, which plea was explained to him by the President of the Court. The accused stated that he understood his plea and desired to have it stand. Thereupon the President of the Court announced that the specification was proven by the plea, and the Court received personal data, and then went into closed session and voted upon

its sentence. The Board of Review of the Navy reversed the decision of the Trial Court on the ground that the President of the Special Court should have complied with Paragraph 73 (b) of the Manual by instructing the Court pursuant to Article 51 (a) and (c) and Article 52 (a) (2). The manual states that the law officer shall instruct the Court upon the presumption of innocence, the doctrine of reasonable doubt, the lesser included offense, and the burden of proof, even in cases of a plea of guilty (although the Code does not) and that the Court should have closed and made its findings by ballot, the guilty plea notwithstanding. The Court determined that the Manual as an Executive Order was on the same level as the Code, and that the provisions of the Manual were mandatory; that in both matters, the Trial Court had erred as a matter of law, but there was no prejudice of the accused's substantial rights in the matter and that, therefore, the action of the Trial Court should stand and the Board of Review was reversed.

Three other cases were certified by the Judge Advocate General of the Navy on a similar question and although opinions were written in each of the cases the decision in the Lucas Case was held controlling. These cases are *U. S. v. Grayson D. Goodrich*, (No. 36), *U. S. v. Roy E. Bishop* (No. 37), and *U. S. v. Paul J. O'Brassill* (No. 52).

In *U. S. v. James R. Slozes* (No. 12, decided November 20, 1951), the accused had been charged with rape of a thirteen year old Korean girl in violation of AW 92. He was convicted and sentenced to confinement at hard labor for twenty years, together

with the usual military punishments. The conviction and sentence were approved by the Board of Review and the accused petitioned for review by the Court. The principal questions raised were the competency of the prosecutrix as a witness because of her age and her statement that she had no religion and accordingly, the legal insufficiency of the evidence to sustain the finding of guilty. The Court affirmed the Board of Review after an extensive review of the law on the competency of witnesses, it appearing from the record that the prosecutrix understood the necessity for telling the truth, her want of religion and years notwithstanding.

U. S. v. Stephen Masusock (No. 15, decided November 9, 1951) involved the competency of morning reports when not executed by the Commanding Officer in the proof of a case charging absence without leave. The questions here were raised for the first time on appeal before the Board of Review. The morning report was signed by a regimental personnel officer and not the Commanding Officer of the company to which the accused was assigned. It was argued that the extract copies of this morning report were hearsay and inadmissible and that they were prepared in an irregular manner and, therefore, not within the exception of the hearsay rule. The Court entertained the case on the petition of the accused but stated that trial counsel should make known its objections at the time of the trial; otherwise, objections may be considered waived. The Court held that the morning report is an official record and that extract copies might appropriately be introduced in evidence. It quoted from service regu-

lations which show the Commanding Officer's right to designate another officer to sign the report and that when no officers are present, the morning report could be signed by an officer designated in a higher headquarters. In view of the ordinary duties of a personnel officer, the Court felt it appropriate for the Commanding Officer to designate him to sign the morning report and the Court said it would assume regularity in such a designation and the burden would be upon the accused to overcome it by evidence. The Court affirmed the Board of Review.

Similar questions were raised in U. S. v. Alfred L. Clements (No. 82, decided November 14), where a Warrant Officer signed the morning report, and applying the doctrine of the Masusock case, the Court held extract copies of the morning report competent and admissible. The same question was raised in U. S. v. Richard A. Lewandowski (No. 91, decided November 14 1951), and U. S. v. Cosimoro P. Flores, (No. 75, decided November 14 1951). U. S. v. Archie A. Bransetter (No. 19, decided November 8, 1951), the accused seaman on charges of absent without leave and breaking arrest, was tried on May 8, 1951, entered a plea of guilty and made an unsworn statement in which he complained of mental lapses due to having been kicked in the head by a horse at the age of fourteen. The Court proceeded as if a plea of not guilty had been entered and received in evidence the Naval health record of the accused. The accused put in no evidence. The Board of Review reversed the findings and sentence of the Court on the ground that a question of sanity had

been raised by the unsworn statement of the accused. The Judge Advocate General of the Navy certified the case to the Court. The Court said that there was an unassailed presumption of sanity; that the unsworn statement was not evidence and raised no issue; that the introduction of the health record without objection might have been error, but not prejudicial and, therefore, the Board of Review was reversed.

In *U. S. v. Louis H. Sturmer, Jr.* (No. 24, decided November 8, 1951), the Board of Review held that to constitute a violation of AGN Article 4 (3) "threatens to strike or assault his superior officer, etc.", the words must constitute an actual threat to commit a battery at the time they are spoken rather than a promise to commit a battery at some future time. The Court disagreed with this interpretation and held that if a Trial Court was satisfied that the avowal of threatening injury was made willfully and intentionally, it is not necessary that it involve immediate injury.

*U. S. v. Oswell F. Merritt* (No. 53, decided November 20, 1951) involves an accused seaman charged with overstaying leave in violation of Article 8 of the AGN. The Court was convened, specification approved, and served on the accused prior to the effective date of the UCMJ. Trial was commenced and the accused entered a plea of guilty after the effective date of UCMJ. The proceedings were approved up through the Board of Review and the Judge Advocate General of the Navy certified the question of the jurisdiction of the Trial Court to proceed with a hearing pursuant to the AGN after

the effective date of the UCMJ. The Court held that the accused having been arraigned after the effective date of UCMJ, should have been tried by a Court governed by the new trial procedures of UCMJ.

Therefore, the Trial Court had no jurisdiction. The Court refused to dismiss the charges, but indicated that it would be up to the Navy to determine what further, if any, prosecution should be taken.

In *U. S. v. Woodrow Emerson* (No. 77, decided November 14, 1951), the accused was tried on two separate charges of absent without leave; one, as a violation of AGN 8 for the absence prior to the effective date of UCMJ, and the second charge of AWOL under UCMJ article 86 for the absence after the effective date of the Uniform Code. The case had been referred to trial by one Special Court martial and tried by another court. The Board of Review set aside the findings and sentence of the Court on the ground that the first charge under AGN did not allege the termination of the absence and return to Naval jurisdiction and was, therefore, deficient and that case was referred to trial by one court and tried by another, thus depriving the latter court of jurisdiction. These questions were certified by the Judge Advocate General of the Navy. The Court held that since the law does not expressly require formal referral of charges, the failure to follow the custom and usage set out in the Manual did not constitute a defect such as would deprive the Court of jurisdiction, especially so in the case where no question was raised at the time of trial. The Court then held that failure

to allege the date and return to Naval jurisdiction was not fatal since absence without leave is an offense consummated on the date of original absence and not a continuing offense. Upon the same basis, the Court held that there was an improper multiplication of charges arising out of the same illegal act by the charging of a single uninterrupted absence without leave as a violation of AGN 8 and as a violation of UCMJ Article 86. The Court, therefore, approved the finding of guilty as to the specification alleging violation of AGN 8 and set aside the finding with regard to violation of UCMJ Article 86, thus reversing in part the opinion of the Board of Review.

In *U. S. v. Raymond D. Clay* (No. 49, decided November 27, 1951), the question certified by the Judge Advocate General of the Navy was whether or not there was prejudicial error in the Trial Court's failure to be instructed on the elements of the offense, presumption of innocence, and the burden of proof after the accused had entered a plea of not guilty as to some of the charges and was tried on the merits as to those charges. The Board of Review held that such error was not prejudicial to the substantial rights of the accused since a review of the evidence before the Court proved beyond reasonable doubt the guilt of the accused. The Court of Appeals held that the accused had been denied one of the essential elements of "military due process" and that the error was prejudicial to the substantial rights of the accused, thereby reversing the

Board of Review.

In *U. S. v. David H. Sonnenschein* (No. 8, decided November 27, 1951), the accused, on charges originating prior to the effective date of UCMJ, was tried, found guilty, and sentenced. The sentence was approved by the appointing authority, the record found legally sufficient by the Board of Review of the Air Force, and the case referred to the Judicial Council prior to the 31st of May, 1951, the effective date of UCMJ. The Judicial Council confirmed the findings and sentence on July 6th and the Judge Advocate General concurred on July 16, 1951, on which date GCM order executing the sentence was issued. The accused sought review by the Court of Appeals and the only question was whether or not the Court had jurisdiction. The Court held that it did not have jurisdiction to review the case because confirmation was initiated by reference to the Judicial Council prior to the cut-off date, May 31, 1951, and nothing remained save the purely formal and ministerial business of execution. This is not part of trial, review or processes within the language of the Manual, all of which in this case had been completed prior to the effective date of UCMJ. Similar problems arose in the cases of *U. S. v. John J. McSorley, et al* (Nos. and 2, decided November 29, 1951), *U. S. v. Richard B. Sherwood* (No. 3, decided November 30, 1951), and *U. S. v. Ernest Martin* (No. 51, decided November 29, 1951), and are disposed of on the authority of the Sonnenschein decision.

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Colonel Ralph M. Smith, a charter member of the Association, West Somerville, Massachusetts, died October 9, 1951.

## Book Announcement:

### Memorandum Opinions of The Judge Advocate General of the Army

By *Herbert R. Burris*,  
1st. Lt., JAGC-USAR

In the extensive revision of the Articles of War, which became effective February 1, 1949, there was included a statute—Article of War 53—which provided in effect for a restudy by The Judge Advocate General, when requested by an accused, of any case in which the offense occurred subsequent to Pearl Harbor Day and initial appellate review had been completed. The Article provided that relief could be granted only upon good cause shown, but if established, The Judge Advocate General was authorized to select corrective action from a wide range of possible curative measures. This remedy, with a termination date fixed, later was incorporated into the Act of May 5, 1950, which enacted the Uniform Code of Military Justice; it is set forth in Section 12 of the 1950 law.

By the end of 1950, The Judge Advocate General of the Army had received and acted upon approximately 175 petitions for relief under Article of War 53; his action in each case was accompanied by a Memorandum Opinion in which he set forth the contentions asserted, and his determinations as to these issues. The entire record was searched for prejudicial error, and where found, relief was granted, whether or not petitioner or his counsel had complained of it in the application for relief. Opinions of non-military tribunals, both federal and state, were liberally cited and heavily relied upon in these reviews.

A selection of the Memorandum

Opinions, omitting those considered merely cumulative or otherwise unimportant as precedent, was published early in 1951 and limited distribution was made through military channels; additionally, the Government Printing Office made available a number of copies for sale to the public. The title, "Memorandum Opinions of The Judge Advocate General of the Army When Acting Upon Applications for Relief under Article of War 53, 1949-50," has been telescoped for citation purposes to the short title "MO-JAGA." The volume already has been cited in Board of Review opinions, and by Staff Judge Advocates in locations as distant as Korea, in support of particular legal propositions which were pertinent.

By strict selectivity, the number of opinions reported in MO-JAGA was restricted to 139. The table of cases appearing in the front of the volume discloses that almost 500 judicial opinions of various civilian courts were cited in support of the propositions of law involved. A thorough index with complete tables makes the volume very practical for the attorney whose practice includes the military justice field. The tables include a conversion list providing reference to original board of review citations of the cases reported, and cross-references to Articles of War, to Articles of the Uniform Code of Military Justice, to the 1928 and 1949 Manuals, and to pages of the MO-JAGA where the subject matter concerned appears. In appearance and binding, MO-JAGA is similar to

the new Manual for Courts-Martial.

The opinions in MO-JAGA have an authoritative quality, as strong legal precedent, which is derived from their statutory basis as determinations of the issues appearing in the respective cases involved.

It is observed that they are decisions which have been reached by the judicial authority established by the Congress for an extraordinary and remedial type of review of military justice cases covering a wide spread of years. Each adjudication personally has been made and signed by the highest legal officer of the Army—the individual occupying the responsible position of The Judge Advocate General and bearing the rank of Major General. In reaching his conclusions in each instance, he has had the benefit of the previous holdings of a statutory board of review and the

opinions of other appropriate authority upon initial review; also he has had the assistance of the experienced lawyers working in a non-adversary capacity in the New Trial Division of the Office of The Judge Advocate General, and in many instances, the briefs and arguments of civilian counsel were presented for his consideration. The authorities whose judicial opinions are published in MO-JAGA are Major General Brannon, Major General Shaw, and Major General Green.

By reason of the wide variety of legal points raised, discussed, and disposed of, and because of the tables and comprehensive index leading the researcher to them, it is likely that as MO-JAGA becomes known, there will be as wide use of this professional tool as the limited number of volumes available will permit.

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## Army JAG Offers Reserve Commissions

Opportunities for Army enlisted men and civilians who are qualified lawyers to obtain Reserve commissions in the Judge Advocate General's Corps, with concurrent call to active military service, were announced recently by the Department of the Army.

Officers holding Reserve commissions in the Judge Advocate General's Corps in the grade of lieutenant and captain may also apply for active duty under this program.

Enlisted men now serving in the Army who are lawyers will be given the opportunity to obtain direct commissions as First Lieutenant. Similarly, lawyers in civilian life may also apply for appointment in this rank.

Basically, to be eligible for selection, an applicant must be between

the ages of 21 and 32, possess an LL.B. degree from an approved law school and be admitted to the practice of law before a Federal court or the highest court of a state.

All officers selected will be ordered into the active military service for a period of three years.

The Army anticipates that 200 officers will be accepted for active military service under this program. Quotas have been allocated to each Army area. Commanders of overseas theaters will consider applications without regard to quotas.

Applications from individuals not in active military service may be submitted through the headquarters of the Military District or the Army Area in which they reside.

## WHAT THE MEMBERS ARE DOING

### ALABAMA

Capt. Henry A. Leslie, Army JAG Reserve, is Acting Legal Counsel for the Birmingham District, Office of Price Stabilization.

### CALIFORNIA

1st Lt. Everett Berberian, San Francisco attorney, has been recently called to active duty and assigned to Camp Hanford, Washington.

Maj. David Ford is with the Central Command in Yokohama as law officer on a general court. Capt. Horace Geer is with the procurement section of the Japanese Logistical Command.

Lt. Col. John P. King recently visited 6th Army headquarters after five and a half years in Korea. Col. King since arriving in Korea in 1946 as Division Staff Judge Advocate has learned to speak and write Korean, passed the South Korean bar examination, drafted the South Korean Army's Articles of War and Manual for Courts-Martial, and trained a corps of military lawyers for the South Korean Army.

Col. George W. Gardes, recently assigned to a Board of Review in JAGO, has been assigned Staff Judge Advocate, 6th Army, at the Presido.

Col. Robert M. Springer, who has been serving as Staff Judge Advocate, 6th Army, has been transferred to the same position with the 4th Army, at Fort Sam Houston, Texas.

Col. E. F. Snodgrass, heretofore SJA for the 4th Army has been transferred to the 7th Army in Germany.

Reserve promotions in the 6th Army have been received recently by Lt. Cols. Richard Dinkelspiel and Lawrence Mulally, Maj. Harold Wattenberg and John J. Cowen, Jr., and Capt. Roger P. Garety, Hillard

Goldstein, and Harry Sherman.

Col. Doan F. Kiechel is Judge Advocate at Letterman Army Hospital. Recently returned to 6th Army from FECOM are Col. Walter Tsukomoto, who is now chief of the Military Affairs office at 6th Army, and Maj. John Carmody, Executive Officer at Camp Roberts.

### COLORADO

Milton J. Blake recently announced a change of address to 422 Midland Savings Building, Denver 2.

### DISTRICT OF COLUMBIA

Col. Michael Leo Looney recently announced the removal of his law offices to the Wyatt Building, Washington.

Lt. Col. Andrew B. Beveridge recently announced the formation of a law firm, Browne, Schuyler and Beveridge, specializing in patent and trademark cases with offices in the Munsey Building.

Col. Walter H. E. Jaeger recently announced removal of his law offices to the Denrike Building, Washington 5.

The Washington area members of the Association held a reception, cocktail party, and dinner at the Naval Gun Factory, Officer's Mess, in honor of the members of the United States Court of Military Appeals. Judge Milton S. Kronheim, Jr., Cmdr., USNR, as President of the local chapter, presided. Chief Judge Quinn and his associates, Judges Latimer and Brosman, each addressed brief remarks to the more than 150 members and their ladies who were present. This group likewise met on December 12th to hear a report from Gen. E. M. Brannon on his recent inspection tour of the Far East. The speaking program was also high-

lighted by a brief address by Monsignor Maurice Sheehy of the Catholic University and formerly Naval chaplain.

#### ILLINOIS

Lt. Col. Walter E. Schroeder was recently appointed General Manager of Leonarde Keeler, Inc., Chicago, Illinois, originators and developers of the lie detector.

Calhoun W. J. Phelps, Princeton, is States Attorney of Bureau County, Illinois.

Lee Ensel, Springfield, is the Judge Advocate General for the Illinois National Guard.

Benjamin S. Adamowski has resigned as Corporation Counsel for the City of Chicago, and has returned to general practice.

Judge William F. Waugh has been re-elected as Judge of the Probate Court of Cook County, Illinois. In the Chicago Bar Association poll of candidates for judicial office, Judge Waugh received the highest number of approving votes of any candidate in the history of the Association.

Grenville Beardsley received the Republican nomination for Judge of the County Court of Cook County and lost the election by a small margin.

#### INDIANA

Patrick J. Fisher announces the recent removal of his law offices to 108 East Washington Building, Suite 802, Indianapolis.

#### MASSACHUSETTS

Maj. Thomas W. Johnson of Lanesborough has recently been ordered back to active duty with the Transportation Corps. He is now stationed at Headquarters Pine Camp, New York.

Capt. Lewis H. Parks of Boston

was recently recalled to duty in the Procurement Division, Office of the Judge Advocate General of the Army.

Robert B. Hearne of Boston was recently married to Miss Diana Betty Allan of Farnham Common, Buckinghamshire, England. After a European wedding trip, Mr. Hearne and his bride will reside in Boston where he is engaged in the practice of law.

Thomas L. Thistle, Mayor of the City of Melrose, is President and Lenahan O'Connell of Boston, Secretary, of the New England Chapter of the Judge Advocates Association. The New Englanders hold three meetings annually in October, February, and May. At the October meeting held at the Union Oyster House, Captain Daniel F. Carney of Public Information Office, Fort Devens, was the speaker.

#### MICHIGAN

Percy J. Power of the Detroit Curling Club was recently elected President of the Ontario Curling Association. The Association is composed of 120 Curling Clubs in the province of Ontario plus one club in the United States at Detroit. Percy Power is the third member of the Detroit Curling Club to attain this high position and the first since 1930. A testimonial dinner was given for Percy Power November 17 by the members of the Detroit Club.

#### NEW JERSEY

Edgar A. Donohue recently announced the formation of a partnership with Joseph F. Donohue for the general practice of law at 25 High Street, Nutley 10.

#### NEW YORK

Maj. Lester T. Hubbard, for many years U. S. Commissioner for the Northern District of New York, has

removed his offices to 36 State Street, Albany.

A. Chalmers Mole recently announced the removal of his law offices to the 36th Floor of number One Wall Street, New York 5, New York.

Sidney A. Wolff was elected a member of the Board of Directors of the New York County Lawyers Association for a term of three years.

#### OKLAHOMA

Gentry Lee recently left general practice in Tulsa to become General Counsel for Cities Service Oil Co. Mr. Lee is now located in the Masonic Building, Bartlesville.

#### OREGON

Colonel Benjamin G. Fleischman served as General Chairman of Portland's Annual Military Ball held December 7th at their Shrine Auditorium.

#### TEXAS

Col. H. Hollers and Col. Trueman O'Quinn, formerly City Attorney of Austin, recently announced the formation of a partnership with offices in the Perry-Brooks Building, Austin. Col. Hollers served with Gen. Betts in the ETO during World War II and Col. O'Quinn was Judge Advocate of the 101st Airborne Division. Both are active reservists, Col. Hollers now with the Air Force and Col. O'Quinn in the Army reserve.

#### NEWFOUNDLAND

HQ., U. S. Northeast Command—The first court martial to be composed of members from more than one armed force sat at Pepperrell Air Force Base during the second week in October. Such combined courts are permitted under the Uniform Code of

Military Justice for the armed forces which became effective May 31 of this year, according to Major General Lyman P. Whitten, Commander in Chief of the U. S. Northeast Command, whose headquarters are at Pepperrell AFB.

The court convened with the express permission of the Secretary of the Air Force and the Secretary of Navy and the occasion established a precedent for the U. S. military courts throughout the world.

Members of the court were: Commander Lewis F. Davis, USN, president; Lt. Commander Stuart H. Smith, USN; Lt. Commander John W. Powell, USN; Lt. Commander John A. Anders, USN; Lieutenant Ralph B. Grahl, Jr., USN; Lieutenant John J. McGarvey, USNR; Lieutenant (JG) Lemuel T. Moorman, Medical Corps, USN.

Counsel members were: Captain George H. Cain, USAF, trial counsel; Lieutenant Norman E. Leach, USN, assistant trial counsel; Maj. Donald W. Paffel, USAF, defense counsel; Lieutenant John W. Klohck, USN, assistant defense counsel.

The law officer was Maj. James W. Strudwick, USAF. The order appointing the law officer, members and counsel was signed by Captain F. B. Schaede, USN, Commander of the U. S. Navy Station, Argentina, Newfoundland, after details were worked out by Lt. Colonel James M. McGarry, Jr., USAF, Judge Advocate of the U. S. Northeast Command, and Commander Richard E. Markham, USN, legal officer of the U. S. Naval Station at Argentina.

The back pages of this issue contain a supplement to the Directory of Members, November 1950, and the supplement previously published in the March and July 1951, issues of the Journal.

## The President Appoints State Chairmen for 1951-52

At the meeting of the Board of Directors called on October 26, 1951, at Washington, D. C., John Ritchie, III, President of the Association, appointed the following State Chairmen:

- Alabama - Leigh M. Clark, Birmingham.
- Arizona - John Paul Clark, Winslow.
- Arkansas - Edwin L. McHaney, Jr., Little Rock.
- California - Henry Clausen, San Francisco; James P. Brice, Los Angeles.
- Colorado - Milton J. Blake, Denver.
- Connecticut - Max Taurig, Waterbury.
- Delaware - David F. Anderson, Wilmington.
- District of Columbia - Milton S. Kronheim, Jr.
- Florida - Jesse F. Warren, Jr., Tallahassee.
- Georgia - L. Aiton Hosch, Athens.
- Idaho - Abe McGregor Goff, Moscow.
- Illinois - Herbert J. Lindstrum, Belleville.
- Indiana - Vern W. Ruble, Bloomington.
- Iowa - James L. Bennett, Mapleton.
- Kansas - Richard F. Allen, Kansas City.
- Kentucky - William D. Becker, Louisville.
- Louisiana - Valentine Irion, Shreveport.
- Maine - James Desmond, Portland.
- Maryland - O. Bowie Duckett, Jr., Baltimore.
- Massachusetts - Frederick L. Corcoran, Jr., Boston.
- Michigan - Percy J. Power, Detroit.
- Minnesota - Thomas E. Sands, Jr., Minneapolis.
- Mississippi - James T. Singley, Meridian.
- Missouri - Philip Maxeiner, St. Louis.
- Montana - Raymond Hildebrand, Glendive.
- Nebraska - Harold D. Lemar, Omaha.
- Nevada - Clel Georgetta, Reno.
- New Hampshire - Ralph Langdell, Manchester.
- New Jersey - Frank A. Verga, Jersey City.
- New Mexico - R. F. Deacon Arledge, Albuquerque.
- New York - Arthur Levitt, New York City; Alexander Pirnie, Utica.
- North Carolina - E. Earl Rives, Greensboro.
- North Dakota - Everett E. Palmer, Williston.
- Ohio - Alan W. Moorman, Cincinnati.
- Oklahoma - Albert Kulp, Tulsa.
- Oregon - Francis T. Wade, Salem.
- Pennsylvania - John McI. Smith, Harrisburg.
- Rhode Island - Sigmund W. Fischer, Jr. Providence.
- South Carolina - James F. Dreher, Columbia.
- South Dakota - Leo A. Temmey, Huron.
- Tennessee - William J. Bowe, Nashville.

Texas - Leon Jaworski, Houston; Emmett L. Whitsett, Jr., San Antonio;  
 Gordon Simpson, Dallas; Meade F. Griffin, Austin.  
 Utah - Calvin Rampton, Salt Lake City.  
 Vermont - Osmer Fitts, Brattleboro.  
 Virginia - Douglas Robertson, Lynchburg.  
 Washington - Ward W. Roney, Seattle.  
 West Virginia - Walton Shepherd, Charleston.  
 Wisconsin - Richard Hunter, Waukesha.  
 Wyoming - Vincent T. Mulvaney, Cheyenne.  
 Hawaii - Joseph V. Hodgson, Honolulu.



### **Committee Chairmen Appointed by President**

Colonel John Ritchie, III, appointed, with the consent of the Board of Directors, the following Chairmen of committees as indicated:

Admiralty - Thomas F. Mount, Philadelphia, Pa.  
 Amendment of By-laws - Albert S. Gerstein, Washington, D. C.  
 Annual Meeting - Henry Clausen, San Francisco, California.  
 Auditing Committee - Bartholomew Coyne, Washington, D. C.  
 Aviation Law - Rowland Fixel, Baltimore, Maryland.  
 Awards - Franklin Riter, Salt Lake City, Utah.  
 Claims - Theodore Hetzler, New York City.  
 Education - Mason Ladd, Iowa City, Iowa.  
 Finance - Thomas Carney, Washington, D. C.  
 Government Contracts - Alton Hosch, Athens, Ga.  
 International Law - James Robinson, Washington, D. C.  
 Legal Assistance - Harold D. Beatty, Haworth, New Jersey.  
 Membership - Fred Wade, Washington, D. C.  
 Military Affairs - Raymond Wearing, Chicago, Illinois.  
 Military Government - Eli Nobleman, Arlington, Virginia.  
 Military Justice - William J. Hughes, Jr. Washington, D. C.  
 Military Reservations - Joseph H. Davis, Muncie, Indiana.  
 Nominations - Gerritt W. Wesselink, Washington, D. C.  
 Patents, Copyrights, Trademarks - Boynton Livingston, Washington, D. C.  
 Procurement - Frederick Greenman, New York City.  
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