HENRY LEWIS STIMSON

Man of War and Peace

Photo by Signal Corps, U. S. Army
TABLE OF CONTENTS

THE GENERAL'S PAGE ....................................................... 3

THE PRESIDENT SAYS ........................................................ 4

MAN OF WAR AND PEACE, Henry L. Stimson .................................................................................................................. 5

MILITARY LAW AND THE ADMINISTRATION OF MILITARY JUSTICE. .............................................................. 7

Brigadier General James E. Morrison

CONTRACT SETTLEMENT ACT OF 1944 ........................................ 11

THE CRIME OF TREASON .................................................. 17

Captain Joseph S. Robinson, JAGD

MILITARY TRIALS OF PRISONERS OF WAR ...........................................

Lieutenant Colonel Leon Jaworski, JAGD

MANEUVERS WITH A STOCKADE ...........................................

Colonel Robert P. Laughlin, JAGD

AMG MILITARY COURTS .................................................... 28

Major William F. Waugh, JAGD

AIR FORCE JUSTICE ............................................................ 30

Colonel Thomas H. Goodman, JAGD

MARINE CLAIMS AT THE NEW YORK PORT OF EMBARKATION ................................................................. 31

Colonel Arthur Lewis, JAGD

THE JUDGE ADVOCATE GENERAL'S SCHOOL ........................................ 36

Captain George F. Forbes, Jr., JAGD

"FIRSTS" IN THE DEPARTMENT ............................................ 40

1st Lieut. Edward F. Huber, JAGD

EXPERIENCES OF AN AIR TRAVELING GCM REPORTER ................................................................. 45

Captain Littleton Fox, JAGD

THE JAG SCHOOL BANQUET SKIT ................................................ 54

1st Lieut. Edward F. Huber, JAGD

WASHINGTON NEWS AND VIEWS ........................................... 57

HONOR ROLL ................................................................. 59

OUR MAIL POUCH ............................................................. 61

LIST OF PROMOTIONS .......................................................... 65

THE JUDGE ADVOCATE JOURNAL

Published quarterly by Judge Advocates Association
1225 New York Ave., N.W., Washington 5, D.C.

Subscription price $4 per annum; $1.00 per number.

EDITORIAL BOARD

Major Clarence L. Yancey, JAGD, Editor

Milton D. Balingter, Managing Editor

Correspondents*

Major Alfred Thomas ....................................... First Service Command
Lt. Robert L. Strong .................................. U.S. Army Forces in the Far East
Major Thea F. Cangelosi .......................... European Theater of Operations
Lt. Col. Frederick R. Bennett, JAGD ......................................... European Theater of Operations

* Ex. Note: Other correspondents will be announced in the next issue.

THE JUDGE ADVOCATE JOURNAL is not an organ of the War Departments. The views expressed in the Journal are those of the author of each article primarily. It is the policy of the Journal to print articles on subjects of interest to officers in the Judge Advocate General's Department in order to stimulate thought and promote discussion; this policy will be carried out even though some of the opinions advanced may be at variance with those held by the Officers and Directors of the Judge Advocates Association and the Editors.

The Judge Advocate Journal is published quarterly by the Judge Advocates Association, 1225 New York Avenue, N.W., Washington 5, D.C. Entry as Second Class Matter applied for at the post office at Washington, D.C., under the Act of March 3rd, 1879.

Subscription $4.00 a year.
THE reception given the first issue of the Judge Advocate Journal was gratifying. Each of us must consider it his Journal if it is to fulfill its purpose. The editorial staff is small and the work must be done in off-duty hours, so it is up to the members of the Corps to send in their contributions. Articles on legal subjects, organizational functions, or any other topic of general interest and letters from Judge Advocates about their problems, solutions, experiences, and observations will be welcomed by the magazine.

By the time this issue of the Journal goes to press the department will have over 2,000 members. Four years ago 95 per cent of these officers were lawyers practicing their profession in civil life. The successful transition to military life is a tribute to the personnel selected to be our officers. The ultimate test of the staff officer is the opinion his commander has of him. Efficiency reports and other sources of information coming over my desk go to prove the wisdom of our selections. By and large, the officers of our Corps have been acquitting themselves admirably and in many cases with distinction. They have made difficult adjustments to strange surroundings and under abnormal conditions. Reports on their soldierly conduct are naturally most satisfying to me. I have the advantage of knowing personally practically every officer of the Department and it is my conviction that no other branch of the service enjoys a more wholesome morale than the one in which we have chosen to serve. Our Journal and our Association can do much toward keeping that spirit at its high level.

MYRON C. CRAMER,
Major General,
The Judge Advocate General.
THE members of our editorial staff are pleased with the many letters of commendation received on the first issue of the Journal. It is timely that public acknowledgment of our debt of gratitude be here made to these men for their zeal and enthusiasm and for the many hours, outside of duty hours, devoted to the work of preparing our first issue. It is my guess that no other publication of this character ever achieved such sudden worldwide acclaim. Our authors can now be thrilled at the thought that their contributions receive global distribution.

This leads up to a plea for articles, news items, stories, photographs, and any other brain-child that might be instructive, interesting, or amusing. Our editorial staff is very selective so if there is a rejection do not be discouraged, keep on trying. It is a worthwhile distinction to be included in the list of contributors.

A very large majority of our judge advocates are now enrolled as members of the Association. It has not been possible to reach everybody and it is believed that those who have not yet joined have not been informed of the fact that Judge Advocates have joined together for the laudable purposes set forth in our charter. Please note below the remarks on the time limitation for obtaining a charter membership.

Because of the constant shifting of military personnel our greatest difficulty is to keep current our mailing list. We are now giving attention to perfecting a system designed to keep this list up-to-date. It will be very much appreciated if members will cooperate by sending in promptly their new address on each change of station.

At the last meeting of the Board of Directors, the following action was taken which will be of interest to the members.

1. The annual subscription rate for the Journal was fixed at $1.00 and the price per copy at $1.00. The payment of the annual dues of $5.00 includes a paid subscription to the Journal.

2. Qualifications for regular membership now read as follows:

   "Any officer who has been commissioned, detailed or assigned by War Department orders to duty with or in the Judge Advocate General's Department, including officers in the active service, in an inactive status, retired, or honorably discharged, also including those officers assigned or detailed to the department prior to 6 May 1915 by a commander having assignment jurisdiction, may, upon approval of the Board of Directors, become a member of the Association."

3. The next annual meeting of the members for the purpose of the annual election of officers and directors will be held in December, 1945.

4. The directors shall be divided into three classes, equal in number; directors of the first class shall be elected for a term of three years, directors of the second class for a term of two years, and the directors of the third class for a term of one year; at each annual election successors to the directors of the classes whose terms shall expire in that year shall be elected to hold office for a term of three years so that the term of directors of one class shall expire in each year. No director shall hold office for more than six consecutive years.

5. Provision is made for the appointment of seven members, none of whom shall be officers or directors, to constitute a nominating committee. This committee shall submit to the secretary a list of nominees for the election of officers and directors. It is also provided that any member may be named for any office in the Association by written nominations of 100 or more members made individually or otherwise to the secretary of the Association and received by him no later than 60 days prior to the annual meeting. The Secretary shall mail every member in good standing at least 45 days prior to any annual meeting a printed ballot containing all the names of the nominees, alphabetically listed, for each office. The voting shall be by secret ballot.

6. Charter members shall be those regular members who are accepted for membership on application made prior to 1 January 1945 and thereafter officers who are accepted for membership in the Association upon application made within 90 days after commission, assignment, or details by War Department orders in The Judge Advocate General's Department.

The provisions in paragraphs 4 and 5 above are in line with the desire of the directors to assure against any small group getting and perpetuating control of the affairs of the Association. The 45 days notice is to provide sufficient time for all members overseas to participate in voting for the nominees on the ballot.

I am especially pleased to report that the Association has secured the right to permanent possession of all non-Government-owned movie films, pictures, files of the "Advocate" and other items of interest to Judge Advocates, which have been acquired by the members

(Continued on Page 6)
Man of War and Peace

NEXT week when Henry Lewis Stimson turns the calendar to 21 September he may reflect on the 77 years since his birth in New York City, on more than half a century of vigor as a lawyer, soldier, statesman, and public servant; on a career unique in U. S. History. The Secretary of War today is as vigilant as the driving U. S. District Attorney appointed by Theodore Roosevelt in 1906, the Secretary of War under William Howard Taft; the World War I Judge Advocate and Field Artillery Colonel, or Herbert Hoover’s Secretary of State. Tanned and robust, he likes nothing better than a visit to the battle zones to see at first hand how the war is going.

The vigorous spirit of the Secretary of War in this greatest of all wars stems from a hardy line of New Englanders, commencing with George Stimson, who stepped from a British ship onto a bleak Massachusetts shore one day in 1635 to found the line in this country.

### Man of War

Though best known as “Colonel Stimson” as military titles go, the Secretary holds the rank of brigadier general in the Officers’ Reserve Corps. He has been on military status of one sort or another for a total of nearly 40 years since he first joined the New York National Guard in 1898. As Taft’s Secretary of War he might have drifted along in the peaceful tenor of the times (1911 to 1913), but instead, set about reorganizing the War Department along the lines commenced by his great predecessor, Elihu Root, and saw the project to completion before his term’s end. War clouds soon gathered over the scarred horizon of Europe and the U. S. Man of War had the house in order.

Returning to his law practice with the potent New York firm of Winthrop & Stimson, he took time out as a civilian to attend the Plattsburg Camp in the summer of 1916 when Woodrow Wilson was gaging at the reins to steer the country clear of war as the clouds inexorably grew nearer. In February, 1917, he notified Secretary of War Newton D. Baker and Brigadier General Enoch H. Crowder, The Judge Advocate General, of “my single desire to be in the [Wild West] 11th Division, as Judge Advocate, or wherever most useful.” On General Crowder’s recommendation he was appointed a Major and Judge Advocate in the Officers’ Reserve Corps. Called to active duty as a Judge Advocate, he was assigned to the Intelligence Section, Army War College, General Staff, for a course of instruction in Intelligence duties. By August, 1917, the Army had found in him an “excellent officer, unusually keen and zealous in perfectioning himself in his duties, anxious to learn all and everything pertaining to military affairs.”

He was commissioned a lieutenant-colonel, Field Artillery of the National Army on 27 August 1917 and assigned to the 305th Field Artillery, 77th Division at Camp Upton, New York. He later attended the Yale Artillery School and in December, 1917, sailed for France on detached service in order to receive General Staff instructions at the Military European School. He was assigned to the Intelligence Section, Headquarters, 51st Division, British Expeditionary Forces at Fremincourt, Station Bapaume, in the Picardy defensive sector. He later attended the Army General Staff College at Langres from 25 February 1918 to 22 May 1918* and was then sent to the 26th Division Headquarters at Bousies, Chateau Thierry. The Director of the School at Langres found him to be a “very able officer. Will adjust himself to any military duty and do efficient service.”

On 1 June 1918, he was made Summary Court Officer of the 305th Field Artillery Regiment and served as a member of a Special Court-martial. He was on temporary duty the first part of July 1918 at his Division Headquarters until relieved 2 August 1918 for return to the United States, having been selected to assist in the training of new Artillery units which were then being organized. His Division Commander stated that he “was very much pleased with the attention to duty . . . and the many plans for development and improvement originating with Colonel Stimson.” He added, “I regret very much losing Colonel Stimson from the division and would unhesitatingly entrust a regiment of Field Artillery to his command. If by any good fortune Colonel Stimson should return to France, I should be glad to see him given the opportunity for a regimental command with this division.”

After arriving in the United States, he was promoted to Colonel of Field Artillery and commanded the 31st Field Artillery Regiment of the 11th Division until its demobilization in December, 1918. Colonel Stimson was awarded the decoration of the French Ordre de l’Etoile Noire (Officer) by Presidential decree of 24 September 1919. He was honorably discharged from military duty at Camp Meade, Maryland, on 9 December 1918, receiving a commendation from his commanding officer on the advanced state of training of his regiment and on “the excellent, soldierly spirit of his troops.

In 1921 he was commissioned a colonel in the Field Artillery Officers Reserve Corps and the following year was made a brigadier general in that corps.

In 1940 when President Roosevelt chose the Secretary of War who was to hear the tremendous responsibility of preparing the nation and the Army for any emergency, he filled the position with one who had experienced the rigors of the battlefield, yet who had wide knowledge of the highest administrative problems and solutions.

The Man of War had returned to the post he had left nearly thirty years earlier.

### Man of Peace

War and peace have been the warp and woof of Henry L. Stimson. Shortly after the outbreak of World War I, Woodrow Wilson named him a member of the cooperator home committee to aid the Commission for Relief in Belgium in its problems of securing supplies. This was a job for a Man of Peace. In 1927, when Nicaragua was in the throes of civil war over the presidential nomination, President Coolidge named him as peace envoy. He succeeded in effecting a peace settlement by the terms of which both sides agreed to disarm and assent to American supervision of succeeding elections. In “Ameri­can Policy in Nicaragua” Secretary Stimson set out his

* A fellow student was Captain Myron C. Cramer of the Cavalry.

† Retiring on his service in France as an officer, the Secretary told his press conference following his recent visit to the Normandy battlefield that he recalled how “I groveled on my belly and wished that I was thinner than I was.”
views on the duty of the United States under such circumstances.

Shortly after his return from Nicaragua he was appointed by President Coolidge to succeed General Leonard Wood as Governor General of the Philippine Islands. The period of his administration was accentuated by a freedom from insular controversies, no doubt due in large part to his sympathy with the wishes and aims of the Filipino people and his diplomatic handling of local problems. He received acclaim for impressing the people of the Philippines of the necessity for developing their economic resources, leaving the question of independence in the background.

He returned to America in 1929 to assume his duties as Secretary of State in the cabinet of President Hoover. The chairman of the American delegation to the London Naval Conference of 1930 which negotiated a treaty by the United States, Great Britain, Japan, France and Italy for the limitation of naval armaments was the Man of Peace. He was also one of the delegates from the United States to the Seven-Power Conference in London in 1931, called to consider the financial strife in Central Europe, and was chairman of the American delegation to the Disarmament Conference at Geneva in 1932.

In 1938 he was chosen by President Roosevelt as one of the American members of the permanent court of arbitration at The Hague. Man of War and Peace

Although he has held important appointments under every President from Roosevelt to Roosevelt there has remained in the background that lure of the active law practice, the magnetism of which is known only to attorneys, and between periods of acting as troubleshooter on a national or international scale, he has always returned to his law office. Graduating from Phillips Academy, Andover, Massachusetts, he entered Yale University where he won the DeForest prize in oratory in his senior year and was graduated with the B. A. degree in 1888. The next two years he studied at Harvard, receiving a master's degree in 1889 and attending the law school in 1889-1890. In 1890 he entered the law office of Root & Clark in New York City and was admitted to the New York bar in 1891. He became a member of the firm two years later. In 1897 the firm was reorganized as Root, Howard, Winthrop & Stimson and in 1901 it became Winthrop & Stimson.

His years of study and practice of the law explain in some measure the ability to grasp and solve difficult situations which has made his career distinguished. The experience gained as the District Attorney who successfully prosecuted the so-called sugar trust for customs fraud and who inflicted heavy fines on leading railroads for giving rebates, no doubt sharpened his aggressiveness.

Coming again to head the War Department, Secretary Stimson had much of the responsibility for raising and training the country's largest peace-time army. He successfully urged on Congress the enactment in September 1940 of the first compulsory service law in time of peace and in collaboration with the Chief of Staff, was active in shaping and training that army. He led in the establishment of virtual autonomy for the Air Corps under the ultimate direction of the Chief of Staff in combined operations.

He has been a strong advocate of the necessity of going on the offensive with minimum delay. To carry this policy into effect, he and General George C. Marshall effected a "streamlining" of the Army Command. He has been unceasing in improving our key defenses, flying to Panama on an inspection of that theater and personally pushing forward the air-patrolling system of the continental defense. He has twice flown to battlefronts on tours of inspection since the beginning of our offensive operations, has taken part in numerous conferences with Allied leaders, talked with the troops and comforted sick and wounded.

Long a student of international affairs, the world security discussions at Dumbarton Oaks no doubt excite the interest of the Secretary of War. Unfolding events looking to the establishment of universal order under law may yet see the playing of trump cards by America's Man of War and Peace.

THE PRESIDENT SAYS—

(Continued from Page 4)

of the staff of The Judge Advocate General's School and of the "Advocate." Possession will be given if and when the school is deactivated. It is believed that as the years go by, these things will enhance in value historically for all JAGs, particularly for the graduates of the school, and will be a fine means to help preserve memories of our war-time service.

We should strive to make our Association a vital and aggressive medium for mutual assistance to all of our members in their Army work. To know our fellow members and their problems—to pass along helpful hints to make us more efficient on the job—to maintain our pride in the Corps—to keep our good humor and maintain high morale—should be our aim. It is work beyond the call of ordinary duty but it will pay big dividends in the knowledge that we have helped to keep bright the shield of honorable service to the country that members of the legal profession and The Judge Advocate General's Department have carried in all of our wars and in every crisis when troubled times have come upon our people.

Howard A. Brundage, Lt. Col. J.A.G.D.
MILITARY LAW AND ADMINISTRATION OF MILITARY JUSTICE

An Address by Brigadier General James E. Morrisette, Assistant Judge Advocate General
Before the State Bar Association of Wisconsin, Milwaukee, Wisconsin, 23 June, 1944.

INNOCENT, I would prefer trial by a court-martial of the United States Army than any other tribunal in the world. Guilty, such a court is the last I would choose; an expression current for years in the small, peace-time garrison Army is heard again reflecting the same trust and confidence in our court-martial procedure by millions of officers and enlisted men in our huge, wartime Army of today composed in its overwhelming majority of individuals but recently enlisted or inducted from civil life.

A system which deserves such an encomium must necessarily possess unusual merit and at the same time must be distinctive and different from all other systems with which it is compared. I shall endeavor to discuss first its distinctive features and the ways in which it differs so radically from the fundamental law and procedure of the Federal and civil courts of this country and secondly what I consider its merits.

Court-martial procedure prescribed by the Articles of War and the Manual for Courts-Martial is, in fact, so startlingly different from the procedure prevailing in the civil courts that I venture to say that not only laymen, but civilian lawyers as well, until they have familiarized themselves with its merits and the manner in which it is applied by the military authorities, will be surprised, and perhaps alarmed to learn of some of its provisions. I propose to demonstrate in this discussion that the differences, radical as they may first appear, are in fact superficial, and that they are all justified and required by military necessity and self-preservation. The Army is proud of its administration of military justice. Like all other humans, we make mistakes, but except where military security requires, we have no secrets from the American people.

At a time when practically every home and household is represented by one or more members in the armed forces, it is well that the American people understand the system of military justice prevailing in their Army. The excellence of our military leadership is now established and well known. Likewise it is common knowledge that the American soldier is better fed and better paid than any other soldier in the history of the world. Medical and hospital care and facilities are the best that skill and money can provide. Little, however, is generally known concerning the military code and the administration of military justice, not only by the American people, but by the average civilian lawyer. The lack of such knowledge concerning a subject of such vital interest is not only puzzling, but it is unfortunate. It is safe to say that whatever suspicion or fear that the system is unnecessarily severe and un-American is due to unfamiliarity with it. Once understood, it is its own champion and needs no other defense.

The extraordinary criminal jurisdiction exercised through court-martial over persons subject to military law, derives its original authority, of course, from the Federal Constitution, more specifically from those provisions empowering Congress to declare war, to raise and support armies, to make rules for the Government and regulations of the land and naval forces and from the provision in the Fifth Amendment excepting from the requirement of a presentment or indictment of a grand jury in capital or otherwise infamous crimes "cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger." Pursuant to such authority the Congress of the United States, following the example of the Continental Congress, enacted Articles of War establishing a system of court-martial wholly penal in jurisdiction and with processes essentially summary in operation.

The necessary procedure is prescribed by the President in his capacity as such and pursuant to special statutory authority in a Manual for Courts-Martial.

Obviously, the system is designed primarily for the maintenance and enforcement of discipline in the armed forces and it is evident that the existing procedure of the civil courts was considered inadequate for that purpose. Otherwise there would be no reason for a separate system for the military forces. It therefore follows, as a matter of course, that the two systems must differ in many important respects, but I hope to make it clear that these differences are justified and required in the interest of national defense and that they are no greater than the necessities of the situation dictate. Unless I am able to convince you that the system, in spite of its unusual features, is humane and

* A.B., University of Alabama, '06; LL.B., University of Alabama, '11.
affords the individual accused of a crime a fair trial, then I will have failed in my mission today.

As lawyers, you are no doubt accustomed to thinking of all courts as part of the Federal or State judicial system. Although declared by the Federal Supreme Court to be courts of the United States (Grafton v. U.S., 206 U.S. 333), courts-martial are a part of the Executive branch of the Government, instrumentalities and agencies of the President as Commander-in-Chief of the Army and his military subordinates for the enforcement and maintenance of discipline. The results are important and interesting.

Inasmuch as courts-martial are not a part of the judicial system of the Government, their judgments may not be reviewed, or, except for lack of jurisdiction, improved upon by civil tribunals. In Turner's case (25 Wis. 990), the Supreme Court of Wisconsin in 1870 held that a State court has power, in habeas corpus proceedings, to inquire into the validity of confinement imposed by the sentence of a court-martial, but this doctrine was promptly repudiated by the Supreme Court of the United States (15 Wall. 397). A Federal court, in habeas corpus proceedings, may inquire into the jurisdiction of a court-martial by whose sentence a prisoner is restrained of his liberty, but further it may not go. Having once determined that all jurisdictional requirements have been met, that is, that the court was legally constituted with jurisdiction over the accused and the offense and empowered to impose the sentence adjudged in the case, a Federal court may not thereafter question the validity of a sentence imposed by a court-martial (Dynes v. Hoover, 20 How. 79). The doctrine announced in the Dynes case has been subsequently adhered to by the Supreme Court. The result is that a person subject to military law may be imprisoned for years, hung or shot, without the right of what is commonly known as an appeal to a higher court. The Supreme Court, by its decision, has seen to it that there may be no unauthorized interference by Federal, civil or state courts in the administration of military justice by military tribunals constituted under the Constitution and the laws of Congress as instrumentalities for the enforcement of discipline in the land and naval forces. Likewise, in the Milligan case (4 Wall. 123) the Supreme Court has made it equally clear that military tribunals may not and must not usurp the functions of civil courts by the attempted exercise of jurisdiction over persons not subject to military law.

There is, of course, no such thing in military law as presentment or indictment by grand jury or trial by jury.

A court-martial is appointed by an officer so authorized by the Articles of War and known as the "Convening Authority," the officer responsible for the overall discipline of the troops under his command. The members of the court are necessarily his subordinates. In the event one or more members are successfully challenged by the prosecution or defense, the Convening Authority, the officer responsible for the overall discipline of the troops under his command, may replace them with others of his own choice. The court is his court composed of members picked and designated by him.

The same Convening Authority determines the form and substance of the charges and specifications against an accused thereafter determines whether they shall be referred for trial to a court of his appointment, dismissed or otherwise disposed of.

In the event a court-martial to which charges are preferred should sustain a plea to the jurisdiction, or to some other plea in bar of trial, the reviewing authority may direct the court to reconvene, override the plea and proceed with the trial. The Convening Authority may likewise direct the law member of the court to change a ruling admitting or excluding evidence and to adopt instead the views of the Convening Authority on the admissibility of such evidence.

Trial by court-martial may be held behind closed doors in secret session. The findings and the sentence may be by secret, sealed verdicts. After arraignment, the trial may continue during the unauthorized absence of the accused, and he may be sentenced in absentia. The jurisdiction of courts-martial is nonterritorial and a member of the military service may be tried in Brooklyn for an offense committed in North Africa or in New Guinea for an offense committed in Texas.

In time of war, a general court-martial has jurisdiction over all persons subject to military law, now including, besides millions of officers and enlisted men, thousands of women and civilians in all parts of the world. Its jurisdiction extends to all crimes and offenses in violation of military or civil law wherever committed, and it may impose any authorized punishment, including death by shooting or hanging. A person convicted of murder, rape, mutiny, desertion, or as a spy in an overseas theater, may be executed where convicted upon confirmation by the Commanding General of the Army in the field without referring the case to the War Department or to the President.

Under the military code, it is a military offense to be, triable by court-martial. Imprisonment for dishonorable failure to pay established debts is authorized. Absence without leave in time of war may be punished by life imprisonment; desertion by death. Willful disobedience of a superior officer is likewise a capital offense.

At the conclusion of the trial, the Convening Authority who appoints the court and refers the charges to it for trial becomes the "Reviewing Authority." In his new capacity as Reviewing Authority, the same officer may approve, modify or disapprove the findings and sentence imposed by the court with the limitation that he may increase the punishment or change a finding of not guilty to guilty. As Reviewing Authority, he may remand the case for further proceedings before the court or direct the law member of the court to reconsider any evidence and proceed with the trial.

Due to excellent pre-trial investigation, acquittals by courts-martial are comparatively rare. Trials are prompt. Punishment required by military necessity is frequently more severe than for similar offenses in civilian life.

In spite of the foregoing superficially stern and summary provisions of the military code, millions of men have, in recent years, passed from civil life to its jurisdiction without being aware of the transition, and when this war is over I predict that they will still maintain that "Innocent, I would prefer to be tried by a court-martial of the United States Army than by any other tribunal in the world." What are the merits of such a system, and why is it that the American people, jealous of their liberties, traditionally opposed to a large military establishment and suspicious of all forms of military government, have favored with the warmest adhesion the administration of military justice under the procedure which I have attempted to describe above?
In the first place, of course, as I shall point out later, the differences between the military and civil codes are more apparent than real. The system prescribed by Congress affords adequate and sufficient guarantees of a fair trial. The unusual and apparently radical provisions of the procedure are intended as emergency measures and the fact that Congress permits them to exist is ample proof that they have not been abused.

Happily, the basic reason for such a lack of abuse in the use of such great power is that the American Army, including the regular professional soldiers, has always been a democratic Army, "the Army of a democratic nation fighting for a cause which the people themselves understand and approve." The American soldier does not have to be driven, discipline is obtained by leadership and willing obedience. When trial is required, the American sense of fair play in such an Army guarantees a fair trial. The American Army today is American manhood in khaki.

In time of peace, military jurisdiction is exercised over a small peacetime Garrison army; in time of war, over millions. But in time of war, as the jurisdiction expands to its huge proportions, the need for man-power and the necessity for preserving it are a constant check upon trials by courts-martial and upon the quality and quantity of punishment imposed upon convicted offenders. Thus, the conditions which expand the powers, act as an automatic check upon their exercise. Man-power is scarce, with the result that a continual effort is made to recap men, as automobile tires are recapped, and retain them in the service. The ratio of trial by general court-martial per thousand men has dropped from the high peak figure of 46 to less than 3 in 1943.

Not only are trials kept to the minimum, but scarcity of manpower has resulted in increased efforts to rehabilitate and restore to the service all military prisoners who show any appreciable salvage value. Persons convicted of the more serious felonies and sentenced to long terms of imprisonment are ordinarily confined in a Federal penitentiary or reformatory but by far the greater number of general prisoners are sent for purposes of securing and retaining them in the service. The ratio of prison terms to general prisoners has receded, and retained them in the service. The ratio of trial by general court-martial per thousand men has dropped from the high peak figure of 46 to less than 3 in 1943.

The American Army is composed of a majority of temporary officers recently discharged from the Regular Army. Not only are trials kept to the minimum, but scarcity of manpower has resulted in increased efforts to rehabilitate and restore to the service all military prisoners who show any appreciable salvage value. Persons convicted of the more serious felonies and sentenced to long terms of imprisonment are ordinarily confined in a Federal penitentiary or reformatory but by far the greater number of general prisoners are sent for purposes of securing and retaining them in the service. The ratio of trial by general court-martial per thousand men has dropped from the high peak figure of 46 to less than 3 in 1943.

The American Army is composed of a majority of temporary officers recently discharged from the Regular Army. Not only are trials kept to the minimum, but scarcity of manpower has resulted in increased efforts to rehabilitate and restore to the service all military prisoners who show any appreciable salvage value. Persons convicted of the more serious felonies and sentenced to long terms of imprisonment are ordinarily confined in a Federal penitentiary or reformatory but by far the greater number of general prisoners are sent for purposes of securing and retaining them in the service. The ratio of trial by general court-martial per thousand men has dropped from the high peak figure of 46 to less than 3 in 1943.

The American Army is composed of a majority of temporary officers recently discharged from the Regular Army. Not only are trials kept to the minimum, but scarcity of manpower has resulted in increased efforts to rehabilitate and restore to the service all military prisoners who show any appreciable salvage value. Persons convicted of the more serious felonies and sentenced to long terms of imprisonment are ordinarily confined in a Federal penitentiary or reformatory but by far the greater number of general prisoners are sent for purposes of securing and retaining them in the service. The ratio of trial by general court-martial per thousand men has dropped from the high peak figure of 46 to less than 3 in 1943.
procedural steps in a case involving a death sentence imposed by a court-martial sitting in this country:  

In lieu of a presentment or indictment by grand jury, there is a change and specification in the form prescribed by the Manual for Courts-Martial alleging the offense and sworn to by a member of the military service. At this point the change and specification are referred to an impartial military officer for investigation at which the accused must be present. He is usually, although not necessarily, permitted counsel. He may cross-examine witnesses called by the investigating officer and he may himself call other witnesses. A written report of the investigation, including the testimony of the witnesses, is forwarded by the investigating officer, through channels, with his recommendation to the officer exercising general court-martial jurisdiction over the accused. The latter officer is required to refer it to his staff judge advocate, an experienced military lawyer, for remark and recommendation. If trial is warranted, then the charges and specifications, together with the investigating officer's report and all accompanying papers are referred to the trial judge advocate of a general court appointed by the officer exercising general court-martial jurisdiction over the accused. The procedure and the rules of evidence at the trial are as nearly as may be, to the procedure and rules of evidence prevailing in the Federal civil courts. Accused may challenge any member of the court for cause and he has one peremptory challenge against any member of the court except the law member. He is represented by counsel appointed by the convening authority and may be represented by individual military counsel of his own choosing, provided the latter is available, and at his own expense by individual civilian counsel. After the evidence is all in and argument by counsel has been heard the court proceeds to ballot on the findings and the sentence. Voting is by secret, written ballot. Except where the death penalty is mandatory and a unanimous vote is required for conviction, the finding must be with the concurrence of at least two thirds of the members present and participating in the trial. A transcript of the proceedings, known as the record of trial, is prepared from the stenographer's notes by the staff judge advocate in a branch office established by The Judge Advocate General in a branch office for review of the record of trial and weigh the evidence in every case imposing a death sentence.

The procedure is conducted on behalf of an accused without expense to him in order to insure a fair trial and a fair sentence, and I insist that under no other procedure are the rights of a person accused of crime more adequately or abundantly protected.

Exactly the same procedure prevails in overseas theaters of operations, except that the Commanding General of the Army in the field, or the Judge Advocate General in a branch office established by The Judge Advocate General of the Army, may act as the Confirming Authority in certain enumerated classes of cases and the record of trial is examined by the Board of Review and an Assistant Judge Advocate General in a branch office established by The Judge Advocate General of the Army.

A somewhat similar procedure prevails in all other cases. Without describing in detail, I am able to assure you that it is adequate.

In conclusion, I beg to add a note of reassurance, coupled with a note of warning. The War Department is keenly aware of its responsibility to the millions of young Americans entrusted to its control. The Judge Advocate General, who in accordance with the established policy of the War Department and with the assistance of the subordinate superintendence of military justice is particularly aware of his responsibility. He may be described as the senior member of a law firm composed of approximately eighteen hundred military lawyers engaged in the practice of every conceivable kind of law in every part of the world. Recently, he has opened an office in Rome and he hopes soon to open one in Berlin and one in Tokyo. He and his officers are not prosecutors but they are engaged primarily in keeping the number of trials by courts-martial to a minimum and in preventing or reducing the number of convictions. He is always on the alert to see that officers are not, or may not appear to be fighting a losing battle with the military justice system. He is always on the alert to see that officers are not, or may not appear to be fighting a losing battle with the military justice system. He is always on the alert to see that officers are not, or may not appear to be fighting a losing battle with the military justice system. He is always on the alert to see that officers are not, or may not appear to be fighting a losing battle with the military justice system.
SCHOOLS

Department of the Judge Advocate General's College of Modern Warfare. No matter what its commitments to the nation's transition from war to peace, though the subject of contract termination has been receiving attention of the Judge Advocates since the War Department reserved the right to require cessation of production under its contracts, it is evident that as the war draws toward its end the services of more and more members of the department will necessarily be wholly devoted to it.

The recently enacted Contract Settlement Act of 1944, which is largely a codification of the legal concepts and administrative regulations previously applied by the procurement agencies, is a convenient hornbook for those unfamiliar with the subject of contract termination. Those who have occasion to wrestle with termination problems will, it is trusted, find a discursive analysis of the statute helpful as a guide to the changes effected thereby.

Basic Legal Concepts

It is fundamental in the law of contracts that the obligor is under a duty to refrain from any acts which might prevent the obligee's full performance of his covenants and thereby interfere with his earning the income. The legal restraint applies to the government in the same way as it applies in times of war as well as in times of peace. Even before this country took up arms in the present conflict it was recognized that the operation of such a principle must be avoided to permit the procurement agencies the freedom of action made necessary by the swift movements of modern warfare. No matter what its commitments may have been or what progress the contractor may have made, the agency must be in the option of the government to require a halt to the production of munitions made impotent by new enemy defenses, of weapons not adaptable to the tactics and materials no longer needed because of the enemy's capitulation or for any other reason.

Evolution of The Termination Article

The right to prevent full performance by a contractor has, for some time now, been reserved to the government by contract provisions permitting "termination at the convenience or option of the government." The original form of clause provided for the reimbursement of costs incurred by the contractor in connection with the terminated portion of the contract and the payment by way of profit of such sum as equaled the anticipated profits on the uncompleted portion multiplied by the percentage of completion of said uncompleted portion. When, on November 19, 1942, the "Standard Termination Article" was adopted, the sums payable to contractors upon termination at the convenience or option of the government were limited to reasonable compensation for liabilities incurred in connection with the uncompleted portion of the contract and such allowance for anticipated profits as the contracting officer might deem reasonable in view of all the circumstances. In the event the parties could not agree as to what payments should be made, the contractor then became entitled to receive compensation fixed by a formula identical with that contained in the original form of article.

The article currently in use is approved by the Joint Contract Termination Board on January 8, 1944, for use by all procurement agencies. This provision, known as the "Uniform Termination Article," is required by the War Department to be included in all requirement contracts, and all lump sum supply contracts for more than $50,000 entered into after February 1944 except such as involve expenditures of less than $500,000 and are to be completed within six months. Insofar as the clause governs payments to the terminated contractor it continues the provision for payment of costs and reasonable profit as fixed by negotiation, but alters the situation resulting from a failure of the parties to agree. In the event no agreement is arrived at, payments to contractors for anticipated profits are now calculated upon a basis of 2% of the cost of raw materials acquired for the uncompleted portion of the contract plus 8% of all other costs, with an overall limitation that the allowance for profit shall not exceed 6% of the combined material and processing costs.
Control of Termination Practices

The Readjustment Division, Army Service Forces, is the office responsible for the formulation of policies with respect to contract termination and property disposal for the guidance of the War Department. By virtue of his designation of special representative of the Under-Secretary of War, the jurisdiction of the Director, Readjustment Division, includes termination practices within the Army Air Forces. To unify policies in the several governmental procurement agencies the Joint Contract Termination Board and the Surplus Property Administration were subsequently established.

With the growing number of terminations and the concomitant increased concern to industry occasioned thereby, it was inevitable and necessary that Congress should take action to permit more expeditious administration of terminations. Its first major effect in that direction has been the passage of the Contract Settlement Act, which has for its primary aim the facilitation of production for war while at the same time permitting prompt return to civilian production by such plants as are no longer required for the manufacture of the materials of war. Congress proposes to achieve that purpose by assuring speedy and final termination settlements, adequate interim financing, maximum use of available materials, manpower and facilities, and prompt clearance of plants. It is also the Congressional will to establish every reasonable safeguard against the perpetuation of fraud in the settlement of any claims arising out of termination of contracts.

The new guardian of contract termination is the Director of Contract Settlement, who is charged with the obligation of prescribing policies and procedures governing all "contracting agencies" in the performance of the functions embraced by the statute. The Director is also made responsible for the establishment of policies with respect to the supervision and review of termination settlements and interim financing within the several agencies, the reporting of information concerning fraudulent practices to the Department of Justice, the securing of reports as to termination and financing activities within the agencies and the submission of quarterly progress reports to the Congress.

The Director is to be assisted by the Office of Contract Settlement and advised by the Contract Settlement Advisory Board. The Board, of which the Director shall be chairman, is to consist of representatives of the following governmental agencies: War, Navy, and Treasury Departments, Maritime Commission, Foreign Economic Administration, Reconstruction Finance Corporation, War Production Board, Smaller War Plants Corporation and Attorney General. It will be noted that with the exception of the Comptroller General, the membership of this board is identical with that of the Joint Contract Termination Board, the body which it superseded.

Termination Procedures

As we have seen, the circumstances that may prompt the exercise of the Government's option under the termination article are many. Generally speaking, it may be said that for such reasons, at such time and to such extent as the contracting officer deems for the best interests of the Government. The decision as to whether performance shall be called to a halt, rests in the contracting officer's sound discretion, free of interference by the Director or other control. The determination as to when production under a contract shall be terminated, i.e., the effective date of the notice of termination, though it is within the province of the contracting officer, has been made subject to restrictions established by the statute. It is now required that a contractor be given such advance notice of termination as is consistent with feasibility and security, and that procedures be established for the disposition of advance notice to subcontractors by the prime contractors. The right to terminate the whole or any portion of a contract is now circumscribed by the statutory requirement that work shall be carried on whenever continuation is of benefit to the government or is necessary to avoid substantial injury to the contractor's plant.

In the War Department contracting officers have always been permitted to arrange pre-termination conferences with contractors when termination of their contracts was contemplated and there was no compelling reason for not discussing such proposed action with the producers. It would seem that the intention of the act is that such meetings be the practically invariable rule, for from such discussions with a contractor, the contracting officer can best secure information with respect to such matters as the most propitious time to stop production machinery, the contractor's need for financing by reason of the termination, and the possible effects of the termination upon his subcontractors.

It frequently occurs that the contracting officer will require time to study the situation before deciding upon his course of action, and will be tempest to direct a temporary cessation before taking any definite steps by way of terminating the contract. Since the Government is liable for any damages sustained by a contractor by reason of delays caused by its officers within the scope of their authority, and such stoppages cannot help but result in confusion during the period that the manufacturer is left "on the fence," contracting officers have been directed to avoid such suspensions whenever possible. The statute now gives the contractor the right to terminate the contracts whenever a suspension lasts for 30 days or more, by serving written notice of such election prior to the agency's direction to resume operations. In the event that the contractor elects to terminate he is entitled to such payments as he would have received had the Government terminated at its election, and whether he elects to terminate or not, he receives reimbursement of costs and expenses occasioned by the cessation.

Property Disposition

Among the steps necessarily taken by a contractor after receipt of notice of termination is the preparation and submission of an inventory of materials allocable to the terminated contract, e.g., raw materials, work partially processed and equipment. The Government is obliged to pay for such items because they had been purchased for the purposes of the contract affected by the notice. The disposal of such surplus property has become one of the most vexing problems of war production. A plant cluttered up with such materials cannot readily be made available for the production of munitions or converted to the manufacture of civilian goods. To alleviate such situations Congress has directed that plants be cleared of such property within 60 days of the submission of the contractor's inventory.

Page 12
Such items as the producer desires to retain at cost may be omitted from the inventory, with the same effect as if they had been bought for other uses. The inventory items have been treated by the agencies in the following manner: (i) The contractor may effect sales subject to limitations as to maximum loss on resale; (ii) the contracting officer may effect sales among other contractors contacted directly by him, or with the assistance of the procurement agency or other governmental agencies; and (iii) he may require that the property be stored for future disposition.

The act specifies that property included in submitted inventories may be acquired by any of the procuring agencies except that the War and Navy Departments and Maritime Commission are to have preferential rights in the matter of acquiring such materials or effecting disposition thereof, for use in war production, among their own contractors.

Should the agency fail to remove the inventoried goods within the statutory period of 60 days, the contractor may, upon 20 days written notice, store them at the Government's risk and expense. The notice, which may be served prior to the expiration of the 60 day period, shall apprise the contracting officer of the date specified for removal to afford him the opportunity to designate the materials as they are removed from the plant. In the event such a checkout is not made, the contractor's certificate as to the facts will constitute prima facie evidence of the fact of removal, of the quantities removed and of the condition of the materials at the time. The contractor may furthermore clear his plant of the inventories at any time, i.e., prior to the expiration of the 60 day period, but he does so at his own risk.

The rules governing disposition of surplus materials apply as well to Government owned facilities. However, it is expressly provided that contrary arrangements may be effected by agreement. Thus the standard Government Owned Facilities clause, which provides for retaining equipment in a standby condition for a period of 90 days, will prevail as against the rules set forth in the act under consideration. The power of the agency to waive or release any of the Government's claims to the materials deviating from the standard form must in the first instance be approved by the Director, Purchases Division, A.S.F.

Negotiated Settlements

The actual termination of a contract is accomplished by the execution of an agreement, the terms of which are arrived at by negotiation, or that failing, by the unilateral determination of the contracting officer after applying the formula contained in the termination article. Assuming that the contracting officer and contractor arrive at an agreement it is final and conclusive, by the execution of an agreement, the terms of which must be approved by a Settlement Review Board if it involves gross payment to the contractor, or the Director if it involves lesser sums.

Formula Settlements

In the case of formula settlements, on the other hand, the article does make provision as to what amounts may be paid to the contractor. It is specified that the sums payable to the contractor pursuant to a formula settlement shall be equal to the total of the following: (i) completed items at the contract price; (ii) cost of work terminated; (iii) profit allowance as hereinafter discussed; (iv) amounts due subcontractors and (v) settlement expenses. It will be noted that such terms as "costs" and "settlement expenses" are not defined by the article itself, but we must look to the Statement of Cost Principles incorporated into the article by reference for such information.

The mentioned statement recognizes that the contractor is entitled to reimbursement "of direct and indirect manufacturing, selling and distribution, administrative and other costs incurred which are reasonably necessary for the performance of the contract and are properly allocable or apportionable" to the terminated portion of the contract in accordance with recognized commercial accounting practices. Inventory allocable to the contract, depreciation and obsolescence at appropriate rates, research expenses, engineering and special tooling costs, interest on borrowings and initial costs are among the chargeable costs. The Statement treats, with some particularity, the extent to which losses on facilities required solely for the purposes of the contract, and rental, alteration and restoration charges under leases entered into for the purposes of the contract are allocable under the terminated contract. Admissible "termination expenses" include legal, accounting and other costs incurred in connection with and by reason of the termination and consequent necessity of storing or disposing of termination inventories. Advertising expenses to an extent consistent with the contractor's pre-war budgets or reasonable under existing circumstances may also be charged to the Government in an item of the termination settlement. The statute enumerates four classes of costs that may not be considered in computing a formula settlement: (1) losses on other contracts, investments, property, or life insurance for the benefit of the contractor, and other expenses of the contractor's plant; (2) the expense of converting the contractor's plant to other work, whether for war or civilian production, or
not allowable; (3) Costs occasioned by the contractor's negligent or willful failure to discontinue production within a reasonable time after the effective date of the termination notice, and (4) any incurred in excess of the reasonable quantitative requirements of the contract are also excluded from consideration.

The Statement of Cost Principles, in addition, provides for the exclusion of a fifth class of charges, namely those written off 60 days or less, on the theory that such charges are not normally treated by the statute, but that the Congressional intent to "allow for more flexible treatment of this item" by the regulations to be promulgated by the Director.

Interest

In addition to the costs and expenses already discussed, the Government is obliged to pay interest to the contractor whose contract has been terminated. Interest charges accrue at the rate of 2½% of the termination claim, per annum, for the period beginning 30 days after the effective date of the notice of termination and ending with final payment. However, such charges do not accrue during such periods as the contractor unreasonably delays the effecting of a settlement, nor beyond the period ending 30 days after a formula determination is made, unless the contractor appeals from such decision or institutes action as provided by the statute and is successful in securing a higher award. The amount of any interest waived by the Government is based on reason of the termination, and applicable to the terminated contract or the terminated portion thereof, in connection with any advance payments or guaranteed loans to be deducted from the interest accruing to the contractor.

Appeals Under Formula Settlements

In situations where agreements are not effected and the contracting officer can fix the amount payable, he is required to supply the contractor with a written statement of his findings, indicating the basis of his determination, within 90 days of the contractor's demand, or within 90 days of the agency's findings, or within one year of the delivery of the agency's findings, indicating the basis of his determination, within 90 days of the contractor's demand therefor. After arriving at a decision, the contracting officer must take action to assure payment within 30 days of 90% of the amount found to be due, less any balance owed the Government for interim financing. A contractor aggrieved by a determination may, in either appeal therefrom or institute suit.

If he determines upon appeal he may first exhaust the remedy within the agency as provided for in the contract, but shall resort to such procedures as are established by the Director. The decision of the appellate authority, when made, becomes that of the agency, and should the contractor decide to pursue the matter further, he may then elect between an appeal to the Appeal Board established by the statute or institute action. Such appeal or suit must be instituted within 90 days of the delivery of the agency's findings, or within one year of the demand for findings if none had theretofore been delivered. If the amount in controversy, i.e., the difference between the amount claimed by the contractor and that conceded to be due by the agency, is $25,000 or less, one person shall sit as the Appeal Board. Three persons shall constitute the Board if the dispute involves a greater sum, provided the contractor demands a hearing by the Board so constituted; unless such demand is made, the matter will be heard by a single member.

Even after a hearing of the matter by the Appeal Board, the contractor may institute suit provided he initiates the action within 90 days of that body's decision. At any stage of the proceedings prior to entry of judgment by the court, the agency and contractor may bring upon a negotiated settlement and effect a stipulated mutual agreement upon that basis.

The contractor, when before the Appeal Board or a court has the burden of proof and the onus of establishing his claim. Though the Board or a court is not bound by the findings of the agency, they are to be considered as prima facie correct. The decision of either of such tribunals may direct an increase or decrease the amount previously found to be due the contractor and enter an award or judgment for such difference, or remit the matter to the agency for further action.

The agencies and contractor may also resort to arbitration to resolve their differences in the manner set forth in the U. S. Arbitration Act. A determination by the arbitrators is final and conclusive to the same extent as executed settlement agreements and is not subject to approval. Further efforts to expedite final adjustments of all controversies arising out of terminated contracts is found in provisions permitting the Appeal Board and contracting agencies to act as mediators and arbitrators in connection with disagreements between contractors and subcontractors, and empowering the Court of Claims to join all parties interested in a termination.

Interim Financing

A vital activity of the Government has been its extension of financial assistance to producers of war materials. This has taken a number of forms—advance payments, partial payments, Government Guaranteed loans and partial payment after termination. The expeditious administration of these methods of assistance is, of course, of prime concern to terminated contractors for undue delay in the payment of their claims will hamper their reconstruction activities and possibly place them in danger of insolvency. The contracting officer is under a positive obligation to advise and assist the contractor in securing financing; steps shall be taken to extend aid within 30 days of the contractor's application therefor.

If the contractor seeks an advance or partial payment after termination it may be made in an amount equal to the sum of (i) 100% of the contract price of completed items, (ii) 90% of the cost of raw materials allocable to the terminated portion of the contract, (iii) reasonable percentage of administrative overhead and other costs allocable to the terminated portion of the contract and (iv) such additional amounts as are deemed necessary to provide adequate financing.

Should the contractor overstate the amount of his prospective claim thereby securing a payment greater than the sum actually due him, he is required to repay the excess with a penalty of 6%. The agencies are permitted to make advance and partial payments in connection with termination claims and may authorize same to be made by contractors to subcontractors, may permit advance payments made prior to termination to be used against termination claims and adjust disputes and claims arising out of or related to interim financing. The act also permits the War Department's participation in and guarantee of loans predicated upon terminated contracts and constitutes the Federal Reserve Banks the fiscal agents of the Government for the purpose of effecting such loans.
Subcontractors

The section of the statute treating of subcontractors' claims indicates a very real effort to protect such producers from loss in their dealings with prime contractors, who would not be considered good credit risks. Some of the limitations of subcontractors' claims may be effected by the prime contractor, with or without the review or approval of the contracting agency or, in the first instance, by the contracting agency. Where disposition of the claim is made within the time allotted for the prime contractor, the agency may either discharge the subcontractor's claim or take an assignment thereof; in either case it is required that the prime be given notice of the action taken. The agency may also assume the contractor's liability and indemnify the contractor against any claims that may be asserted by the subcontractor. Moreover, in settling with subcontractors the agency need not concern itself with any limitations as to the amount payable to the prime, and may even settle such claims though the prime contractor has theretofore been paid in full.

Notes

2. The original form of termination article was set forth in Article 17 of War Department Supply Contract Form No. 1, approved 16 September 1941 (2 Fed. Reg. 6036).
4. The administration of contract terminations in the War Department is governed by Procurement Regulations No. 15, originally issued on 14 August 1943 effective 1 September 1943. Amendments to the regulation are prepared in the office of the Requisition Division, Hqts. AAF.
6. United States v. Smith, 94 U.S. 214 (1876); United States v. Behan, 110 U.S. 336 (1883), where the court stated: "But surely, the willful and wrongful putting an end to a contract, as is evidenced from carrying it out, is itself a breach of contract for which an action will lie for the recovery of damages which the injured party has sustained.
8. See note 2, ante.
9. Strategic changes, development of new projects, invention of new items of war material, relocation of scarce raw materials and similar factors arising under the changing conditions of modern war (PR 13-101), are but some of the factors whose keen observation are the expanse of the opinion reserved in the termination article by the government. The Chiefs of the Technical Services may act under that article rather than the "Defers-Damages" provision in the event of the contractor's acceptance. See the notes above.
10. "The need for legislation in the field of contract termination has been experienced by the heads of the Government agencies concerned, and by industry and labor groups which have felt the effects of contract termination. The present procedure of contract termination is cumbersome and results in unnecessary delays impinging on our economy. In the event of wholesale termination in the course of the war, this procedure may be enforced, in the opinion of this committee, merely expedite expenditure of Government funds (Sen. Comm. Report No. 356, p. 1).
11. Section 1.
12. The act is based on "two fundamental principles: (1) Businesses shall be paid promptly the fair compensation which is due them for the terminations of their war contracts, and (2) The Government, when paying out such fair compensation should be carefully protected in its rights and funds. Senate Committee Report, No. 356, p. 2, May 1944.
13. Contracting Agencies are defined by the statute (section 3) as "those authorized to enter into contracts pursuant to section 301 of the First War Powers Act, as well as the Reconstruction Finance Corporation and the National Housing Agency. The War Production Board. Under the statute the President may designate any department or agency of the government exercising functions in connection with the prosecution of the war or the acquisition or utilization of property or labor for the prosecution of the war." (II Stat. 20.)
prosecution of the war. It is pursuant to this authority that the President has authorized the War and Navy Departments and the Air Force to establish a Joint Disputes Board (JDB) to

Section 12 (d).

Whether the contract is reinstated or terminated, the reason for the retention, storage, maintenance or disposition of such machinery, tools or equipment.” (Section 12 (g))

FR. 3-322.

Section 12 (g).

FR. 10-105.

Section 5 (c).

Section 11 (a) (1).

Section 12 (a) (1).

Indem.

See note 53, supra.

Paragraph (a).

Paragraph (b).

Paragraph (d).

Sentence (1).

Sentence (1).

Sentence (1).


Section 13 (c) (1).

Section 15 (a).

See 38 U.S.C. 1310 (1930) and cases cited therein holding that where contracting officers may be stored with the contractor pursuant to storage regulations for the inclusion or exclusion of other costs.

If the contract had been negotiated in good faith, or to any claims in favor of the Government arising out of the terminated contract (PR 15-502). In the case of V-Loans the interest is suspended as to the portion of the loan based upon the terminated contract (PR 15-502).

Section 15 (a).

Indem.

Indem.

Section 13 (f).

Section 14 (b).

Section 12 (f).

Section 12 (f).

Section 12 (f).

Section 13 (f).

(Continued on Page 2-1)

THE JUDGE ADVOCATE JOURNAL

Volume 2-1 - October 1947

Page 16
THE CRIME OF Treason

By Captain Joseph S. Robinson, JAG

THE word "treason" as commonly used means (a) the betraying of any trust or confidence, (b) the offense of attempting by overt acts to overthrow the Government of the state to which the offender owes allegiance (Vechter's International Dictionary, Unabridged, 2nd Ed.). Treason as defined by the Constitution and the Federal penal statutes has a more limited technical meaning.

"Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two witnesses to the same overt Act, or on Confession in open Court." (U.S. Constitution, Art. 3, Sec. 3, Clause 1.)

The Criminal Code (18 USC 1 and 2) reads as follows:

"Whoever, owing allegiance to the United States, levies war against them or adheres to their Enemies, giving them aid and comfort, within the United States or elsewhere, is guilty of treason. (R.S. § 3331; Mar. 4, 1909, c. 321, § 1; 35 Stat. 1088.)"

"Whoever, owing allegiance to the United States, levies war against them or adheres to their Enemies, giving them aid and comfort, within the United States or elsewhere, is guilty of treason, (R.S. § 3331; Mar. 4, 1909, c. 321, § 1; 35 Stat. 1088.)"

"Treason is the crime defined and made a part of the supreme law of the land. The reason being "** that the treason Act itself were attempted to be used as a means of destroying the power of the church. Whenever is suited their purpose, the nobility likewise resorted to the treason laws in their struggles for power with the Crown. In the main, however, the Crown used these laws in its efforts to limit the power of the nobility and the clergy and to compel all subjects to bow to the will of the ruling power."

Prior to the passage of the 1531 statute, persons were tried and convicted of common-law treason which was indefinite and elastic enough to meet almost any purpose of the entrenched or usurping powers.

In the year 1383, Thomas Becket, the Archbishop of Canterbury, was tried for high treason because of differences which arose between him and King Henry II involving the jurisdiction of the ecclesiastical courts and the application of canon law in England. (Cobbett's State Trials, Vol. 1, p. 6.) It was this controversy which led to the publication of the famous Constitutions of Clarendon. Becket fled to France but was murdered when he returned to England several years later. This is the first of a series of reported cases wherein the common law of treason and later the treason Act itself were attempted to be used as a means of destroying the power of the church. Whenever is suited their purpose, the nobility likewise resorted to the treason laws in their struggles for power with the Crown. In the main, however, the Crown used these laws in its efforts to limit the power of the nobility and the clergy and to compel all subjects to bow to the will of the ruling power.

In 1807 Piers Gaveston, the Earl of Cornwall, was banished from the kingdom by direction of the barons because he, among other things, "exceedingly nursed the king, and had advised him to do ill in divers manners; ** that he (Gaveston) outranged the king's heart from his liege people, so as he despised their counsels." Gaveston was recalled by the king and falling into the hands of the Earl of Warwick, was by him put to death. (State Trials, Vol. 1, p. 292.)

Hugh and Hugh Le Despenser, father and son, gained favor with Edward II shortly after the fall of Gaveston. In 1320 the nobles united and by a document entitled "The Confederacy of earls and barons against Hugh and Hugh Le Despenser" accused them of treason and without trial directed that they be banished from the kingdom. It was alleged that both had usurped royal
power over the king and his ministers; that they had
contrived "to turn the heart of the king from the
peers of the land that they may have sole government thereof;
* * *
Sir John Mowbray, Duke of Norfolk, was the great man of
the realm not good councillors to speak with or come near
the king to advise him, nor the king to speak to him, unless in
his presence and hearing, or of one of them, and when they please;" etc. This
ex parte proceeding was held to be a nullity and the
Despensers were restored to their former position of
favor with the king. Before long they were again in dif-
ficulties. Queen Isabel then assigned the alleged
misconduct of the Despensers as the reason for taking up arms
against her husband, King Edward II. Hugh, the father,
"was drawn and hanged upon the common gallows,
without hearing or trial." Hugh, the son, was taken be-
fore Sir William Trussel, "a justice," who, without
trial, adjudicated him a traitor and directed that "he
be drawn and quartered." The concluding statement
of Sir William Trussel's speech of condemnation reads as
follows: "and for that you abetted and procured discord
between the king and queen, and others of the realm,
you shall be embowelled, and your bowels burnt. With-
draw, traitor, tyrant, and so go take your judgment,
attained wicked traitor." The younger Despenser was
drawn, hanged, quartered, "and his head fixed upon
London-bridge." In later years the proceedings against
both Despensers were by parliamentary enactment de-
clared null and void because "they were not appealed,
called to answer, nor due process made against them
according to law." (State Trials, Vol. 1, pp. 23-38.)
Common-law treason charges alleging various acts of
misconduct, which in the main involved a struggle for
power, were brought against Thomas, Earl of Lancaster,
in 1322; Adam de Orleton, Bishop of Hereford, in 1323;
Roger Mortimer, Earl of March, in 1350; John Strat-
ford, Archbishop of Canterbury, in 1347, and several
others, all of which finally led to the passage of the
Treason Act during the reign of Edward III in the year
1351. Violent and corrupt constructions of the law of
treason, however, did not stop with the passage of the
Act. For the next several hundred years charges of high
treason were brought against many persons for all types
of alleged wrongs. Common-law treason, except for
the punisher, was but "constructive" treason grafted onto the Act of Edward III by judicial and legis-
latively interpretation took its place.
In 1533, Sir Nicholas Throckmorton bitterly fought the attempt on the part of the Crown to convict
him of treason for acts wholly outside the statutory lim-
itations. When the jury acquitted him, the court forth-
with committed the jurors to prison and held Throck-
morton to answer for other charges. "So the juries
were deprived of the liberty of judging according to their
consciences, and, instead of being governed by proofs,
they were to examine how the court stood affected to the
prisoners, and by that determine their verdicts. This
rigour executed upon the jury was fatal to Sir John
Throckmorton, who was found guilty upon the same
evidence on which his brother had been acquitted." (State Trials, Vol. 1, p. 902.)
In 1355, Henry VIII, who was later accused of
murder. It was charged "that the (Queen Anne) had pro-
cured her brother (Lord Vincents Rochford) and the
other four (Norris, Smeaton, Beveton and Weston) to
lie with her; and they (the deserters) all of them, did
and said to them, that the king never had her heart, and had
told to everyone of them by themselves, that she loved
them better than any person whatsoever. Which was
to the slander of the issue that was begotten between
the king and her." (State Trials, Vol. 1, p. 417.) All
were executed and King Henry was again freed of the
bonds of matrimony to go his venturesome way. Strange
indeed were the elastic interpretations of the Treason
Act, and many were the varied purposes it served.
In the year 1534, Sir Nicholas Throckmorton bitterly fought the attempt on the part of the Crown to convict
him of treason for acts wholly outside the statutory lim-
itations. When the jury acquitted him, the court forth-
with committed the jurors to prison and held Throck-
morton to answer for other charges. "So the juries
were deprived of the liberty of judging according to their
consciences, and, instead of being governed by proofs,
they were to examine how the court stood affected to the
prisoners, and by that determine their verdicts. This
rigour executed upon the jury was fatal to Sir John
Throckmorton, who was found guilty upon the same
evidence on which his brother had been acquitted." (State Trials, Vol. 1, p. 902.)
In 1586, Mary, Queen of Scots, was convicted of trea-
son for "pretending title to the crown of the realms of
England" and executed upon orders of Queen Elizabeth.
The executioner's ax, during the reigns of Elizabeth and
King James I, was seldom dry, so plentiful were the
executions and the executions were executed and King Henry was again freed of the
bonds of matrimony to go his venturesome way. Strange
indeed were the elastic interpretations of the Treason
Act, and many were the varied purposes it served.
In the year 1534, Sir Nicholas Throckmorton bitterly fought the attempt on the part of the Crown to convict
him of treason for acts wholly outside the statutory lim-
itations. When the jury acquitted him, the court forth-
with committed the jurors to prison and held Throck-
morton to answer for other charges. "So the juries
were deprived of the liberty of judging according to their
consciences, and, instead of being governed by proofs,
they were to examine how the court stood affected to the
prisoners, and by that determine their verdicts. This
rigour executed upon the jury was fatal to Sir John
Throckmorton, who was found guilty upon the same
evidence on which his brother had been acquitted." (State Trials, Vol. 1, p. 902.)
In 1586, Mary, Queen of Scots, was convicted of trea-
son for "pretending title to the crown of the realms of
England" and executed upon orders of Queen Elizabeth.
The executioner's ax, during the reigns of Elizabeth and
King James I, was seldom dry, so plentiful were the
executions and the executions were executed and King Henry was again freed of the
bonds of matrimony to go his venturesome way. Strange
indeed were the elastic interpretations of the Treason
Act, and many were the varied purposes it served.
In the year 1534, Sir Nicholas Throckmorton bitterly fought the attempt on the part of the Crown to convict
him of treason for acts wholly outside the statutory lim-
itations. When the jury acquitted him, the court forth-
with committed the jurors to prison and held Throck-
morton to answer for other charges. "So the juries
were deprived of the liberty of judging according to their
consciences, and, instead of being governed by proofs,
they were to examine how the court stood affected to the
prisoners, and by that determine their verdicts. This
rigour executed upon the jury was fatal to Sir John
Throckmorton, who was found guilty upon the same
evidence on which his brother had been acquitted." (State Trials, Vol. 1, p. 902.)
In 1586, Mary, Queen of Scots, was convicted of trea-
son for "pretending title to the crown of the realms of
England" and executed upon orders of Queen Elizabeth.
The executioner's ax, during the reigns of Elizabeth and
King James I, was seldom dry, so plentiful were the
executions and the executions were executed and King Henry was again freed of the
bonds of matrimony to go his venturesome way. Strange
indeed were the elastic interpretations of the Treason
Act, and many were the varied purposes it served.
When I am no more, I would not by my Will present receive, my dear wife, my last words in these my last female sex, wrote in part as follows: "You shall now lines. My love I send you, that you may keep it when legends about his devotion to and consideration of the I am dead; and my counsel, that you may remember it body, and your body shall be divided into four quarters, to be disposed of at the king's pleasure, and God

In England the punishment for treason continued the same under the statute of Edward III as it was by common law. It was barbarous in the extreme. "The sentence in the case of a man was that the offender be drawn on a hurdle to the place of execution, that there he be hanged by the neck but not till he be dead, and that while yet alive he be disembowelled and that then his body be divided into four quarters, the head and quarters to be at the disposal of the Crown. Until 1790 at common law a woman was drawn to the place of execution and there burned. In that your hanging was substituted for burning in the case of female traitors. In 1804 the part of the sentence relating to hanging and to disembowelling was altered to hanging until death supervened. Drawing and beheading and quartering after hanging were abolished in 1870." (Encyclopedia Britannica, 14th Ed., Vol. 22, p. 438.)

In England and Canada, as late as the passage of the Act of Edward III, Sir Walter Raleigh was tried and convicted of treason on charges which alleged in the main that Sir Walter conspired to dispose of the king and his royal progeny and advance Arabella Stuart to the throne. The judgment carried with it the usual form of barbarous punishment. It provided: "You shall be drawn upon a hurdle through the open streets to the place of execution, there to be hanged and cut down alive, and your body shall be opened, your heart and bowels poked out, your very members cut off, and thrown into the fire before your eyes; then your head to be stricken off from your body, and your body shall be divided into four quarters, to be disposed of at the king's pleasure, and God have mercy upon your soul." (State Trials, Vol 2, p. 31.)

In his last letter to his wife, Sir Walter, true to the legends about his devotion to and consideration of the female sex, wrote in part as follows: "You shall now receive, my dear wife, my last words in these my last times. My love I send you, that you may keep it when I am dead; and my counsel, that you may remember it when I am no more. I would not by my Will present you with sorrow, dear Rose, let them go into the grave with me, and be buried in the dust. And seeing that it is not God's will that I should see you any more in this life, bear it patiently, and with a heart like thyself. First, I send you all the thanks which my heart can conceive, or my words can rehearse, for your many travails, and care taken for me; which though they have not taken effect as you wished, yet my debt to you is not the less; but pay it I never shall in this world. Secondly, I beseech you, for the love you bare me living, do not hide yourself many days, but by your travels disperse you from the face of the earth, so that the world may forget me, and the tears shed over my grave may make way for the tracing of your name thereon. Thy mourning cannot avail me, I am but dust. * * * But take heed of the pretences of men, and their affections, for they last not but in honest and worthy men; and no greater misery can befall you in this life than to become a prey, and afterwards to be despised. I speak not this, God knows, to dissuade you from marriage, for it will be best for you both for a respect of the world and of God. As for me, I am no more yours, nor you mine, death hath cut us asunder; and God hath divided me from the world, and you from me. Remember your poor child for his father's sake, who chose you, and loved you in his happiest times. * * * My dear wife, farewell." (State Trials, Vol 2, p. 39.)

Although a large number of offenses were made treasonable by the 1551 statute—such as to compass or imagine the death of the king, the queen or their eldest son and heir; to slay the chancellor, treasurer, or the king's justices, etc.—the provisions which were carried over and made a part of the United States Constitution read: "to levy war against the king in his realm, or be adherent to the king's enemies in his realm, giving them aid and comfort in the realm or elsewhere." This language was altered and adapted to our system of government. The same two acts and those two alone were declared to constitute treason in the United States. One is levying war against the United States; the other, adhering to their enemies, giving them aid and comfort. To constitute "levying war" there must be an actual, though not present intention to levy war by force (U.S. v. Bollman, 8 U.S. 75), i.e., "assemblage of persons for the purpose of overthrowing the Government or to coerce its conduct" (U.S. v. Gratz, 4 Sawy. U.S. 457) ; "There must be a present intention to levy war by force" (90 Fed. Cases 18,275) ; "Force is necessary to complete the crime, but the quantum of force is immaterial." (U.S. v. Fries, 9 Fed. Cases 5127.) See also U.S. v. Bower, 25 Fed. Cases 14,693; U.S. v. Henray, 26 Fed. Cases 306.

Of course treason may be committed by one not personally present at the immediate scene of violence, for as was said in 30 Federal Cases 18,289, "Influential persons cannot form associations to resist the law by violence, excite the passions of ignorant and wondrous persons to resist the law, and establish an enemy to the community.* * * They who have the wickedness to plan and incite and aid, and who perform any part however minute, are justly deemed guilty of this offense, though they are not present at the immediate scene of violence."

Inter alia: "as an act of violence by force. If the act of violence is concerned, it is necessary that a state of war with a foreign power exist, and that the enemy be a "subject" of such foreign power. (U.S. v. Friece, 259 Fed. 673.)

The accused, on the other hand, need not be a citizen...
of the United States (Castile v. U. S., 88 U.S. 147). There must, however, be an "intent" to give aid and comfort to the enemy (U.S. v. Werner, 243 Fed. 708).

Another equally stringent feature of treason is the notion that no person shall be convicted of the offense except on the testimony of two witnesses to the same overt act. (30 Fed. Cases 18,271.)

"Words oral, written or printed, however treasonable, seditionous or criminal of themselves, do not constitute an overt act of treason, within the definition of the crime. When spoken, written or printed in relation to an act or acts which, if committed with a treasonable design, might constitute such overt act, they are admissible as evidence tending to characterize it, and to show the intent with which the act was committed." (30 Fed. Cases 18,272.)

"More expressions of opinion indicative of sympathy with the public enemy, will not ordinarily involve the legal guilt of that crime. They may well justify a strong feeling of indignation against the individual, and the suspicion that he is, at heart, a traitor, but will not be a sufficient basis for his conviction in a court of law." (30 Fed. Cases 18,272.)

No other acts can be declared to constitute the offense. "Congress cannot extend, nor restrict, nor define the crime. Its power over the subject is limited to prescribing the punishment." (U.S. v. Greenhouse, 29 Fed. Cases 15,254.)

Thus constructive treason engraved either by judicial decisions or by legislative enlargement is prevented. "An attempt to overthrow the government excites the deepest indignation in great numbers, especially in those who are imbued with a warm and devoted patriotism. * * * A traitorous assault upon it arouses the strongest passions, and in the keenness of their resentment, thoseCorporate, in pursuit of the perpetrators, they are apt to break down the barriers which are essential to the protection of innocence. Our fathers, therefore, endeavored to render some of these safeguards impregnable, by embedding them in the fundamental law."

The central figure in the most celebrated treason case in American history was John Brown. Burr was a distinguished Revolutionary War soldier, a United States Senator from New York, Vice President of the United States under Thomas Jefferson, and the ally of Alexander Hamilton in a pistol duel. He was charged, among other things, with seeking to separate the Western states from the Union and set up an empire of his own, in violation of Article 3, Section 3, Clause 1, of the Constitution. After a spectacular trial, over which John Marshall presided, Burr was found not guilty. (25 Fed. Cases 14,692.)

Many years later the treason trial of John Brown of Harper's Ferry fame caused considerable excitement. Brown, a fanatic Abolitionist, became a conspicuous figure in the Kansas struggle between the "free state" and pro-slavery settlers. He came East for the purpose of gaining followers for his cause and carrying out a long-cherished scheme for facilitating the escape of fugitive slaves. At Charlestown, Canada, he and a handful of associates adopted a "Provisional Constitution and Ordinance for the People of the United States." He removed to a farm near Harper's Ferry, the site of a Federal arsenal, which he attacked and captured on the night of October 16, 1859. On the following morning, he and his men were overpowered by a military force under the command of Colonel Robert E. Lee.

He was convicted of treason, of conspiring and advising with slaves and other rebels, and murder in the first degree, and hanged on December 2, 1859. The attack on Harper's Ferry created widespread excitement, particularly in the Southern states. Among the Abolitionists, Brown was looked upon as a martyr to their cause. Shortly after his death the famous song was published, beginning with the words "John Brown's body lies a-mouldering in the grave, but his soul goes marching on." (Encyclopedia Britannica, 14th Ed., Vol. 4, p. 265.)

One of the more recent treason trials for acts originally made punishable by the statute of 1851 involved the Detroit restauranteur Max Stephan who gave aid and comfort to Oberleutnant Hans Peter Krug, an escaped prisoner of war. Stephan was sentenced to death by hanging. (Stephan v. U.S., 135 Fed. 87.) A later case involved Hans Max Haupt and others who gave aid and comfort to Herbert Haupt, the Nazi saboteur who was executed on August 9, 1942 after conviction by a military tribunal and the Supreme Court's ruling in Ex parte Quirin, 337 U.S. 1. (U.S. v. Haupt et al, 136 Fed. 2nd 661.)

In England just as in this country the courts are still called upon, although fortunately in only rare instances, to invoke the now ancient statute of Edward III to punish traitors. (The King v. Sir Roger Casement, 1917 Law Reports, King's Bench Div., Vol. 1, p. 98.)

The crime of treason as denounced by the Constitution is as such not triable by an Army court-martial although certain crimes specifically denounced by the Articles of War, treasonable in nature and in effect constituting treason, are triable by such courts. (Winthrop's Military Law and Precedents, 2nd Ed., p. 629. JAG opinions, SP(JPG) 1841/2407; 19 Feb. 44; Case of Brig. Gen. Hull, 1814; p. 118.)

In addition to the treasonable tendency to trial by courts-martial for a violation of Articles of War 75 and 81, military men are also triable by courts-martial under Article of War 96 for treasonable acts. This is on the theory that such conduct is to the prejudice of good order and military discipline and tends to bring discredit upon the military service. The charges, however, are not technically known as treason.

Civilians are also triable by military courts for a violation of Article of War 81 if they are persons subject to military law or if they are within a jurisdiction which is legally under martial rule. (Dig. Op. JAG, 1950, p. 40; 15 Op. Atty. Gen., p. 1472; Ex parte Milligan, 71 U.S. 2.)

Article of War 81 (18 USCS 33) are today generally relied upon to prosecute.
MILITARY Trials of Prisoners of War

By Lt. Colonel Leon Jaworski, JAGD

I N 1874, representatives of European powers met at Brussels to deliberate over appropriate laws of war. A further conference was held in 1899 at The Hague, resulting in the drafting of a set of principles which each power was to embody in its Army regulation. This agreement did not have the force of a convention and in some instances was loosely applied. While additional progress was made by other international agreements, notably The Hague Conventions of 1907, some questions of war law still remained undetermined.

Each of these efforts served as a stepping-stone to the formation of that great Convention entered into on July 27, 1929, at Geneva, Switzerland, known as the Geneva Convention of 1929, which gave to the world a code of civilized principles for the guidance of warring nations. One of the Conventions entered into on this occasion pertains to the humane treatment of prisoners of war.

History records the holding of many conferences and the drafting of numerous regulations for the conduct of war. It is of great historical interest that in the War between the States, or Civil War as it is commonly known, both sides invoked principles of international law. At President Lincoln's direction, there was prepared a manual of "Instructions for the Government of the Armies of the United States in the Field," which has been referred to by authorities as "The first written code of land war." Students of the subject of war rights on land have given much praise to this set of regulations. One eminent authority says that "its teachings throw a flood of light on the dark places of international law."

As early as 1874, representatives of European powers met at Brussels to deliberate over appropriate laws of war. A further conference was held in 1899 at The Hague, resulting in the drafting of a set of principles

*J.D., Harvard University, '20; Lt. M., George Washington University, '29.
1 Spaight, War Rights on Land, page 11.
law, the organic law to which we must turn in the trial
of prisoners of war who commit offenses that are viola-
tions of our laws. The soldiers of our forces have pre-
served to them a trial before a duly constituted court-
martial for any offense with which they are charged.

By virtue of the guarantees of the Geneva Convention
the prisoner of war detained by us is possessed of the
same right. The rights thus accorded to these prisoners,
when translated into an American court-martial trial,
mean the enjoyment of great and valuable safeguards
that a liberty-loving Democracy has provided for the
protection of all who come under its jurisdiction.

The machinery of a court-martial moves with sure-
ness, leaving little opportunity for a miscarriage of jus-
tice. Indeed, it has been said that the innocent would
rather be tried by court-martial than any other court,
whereas the guilty would rather be tried by any court
than a court-martial. After the charge is filed, all cases
of a serious nature warranting a recommendation for
trial by general court-martial are carefully investigated
pursuant to Article of War 70 by an impartial and
experienced officer. In the course of investigation, he is
in duty bound to call before the accused all witnesses
supporting the charge so that the accused may cross-

examine them, if he so desires. In other words, the
Government may be called upon to disclose its full
hand long prior to trial. Moreover, the accused is given
the privilege of calling any witnesses he desires on his
own behalf. Upon completion of the investigation, the
report, together with the recommendation of the in-
vestigating officer, is submitted to the camp commander
where the prisoner of war is detained. If the camp
commander considers the evidence sufficient to warrant
a trial by general court-martial, he forwards the charges,
the investigation and the allied papers, together with
his recommendation, to the officer exercising general
court-martial jurisdiction over the prisoner of war.

This officer's Staff Judge Advocate considers the evidence
submitted and makes his recommendation as to whether
the case should be referred to a court-martial for trial.
If the evidence submitted is insufficient to warrant trial
by either a general or an inferior court, the charges are
dismissed. If the officer exercising general court-martial
jurisdiction, after consideration of his Staff Judge Advocate's
recommendation, concludes to refer it to a general court-
martial for trial, a court composed of not less than five-

qualified and impartial officers

will sit in judgment on the charges preferred against the
accused. A Trial Judge Advocate and Assistant Trial
Judge Advocate are appointed to prosecute the charges
in the name of the United States. While under the ex-
press direction of the Manual for Courts-Martial their
primary duty is to prosecute, any act inconsistent with
a genuine desire to have the whole truth revealed is
prohibited.1 Competent Defense Counsel consisting of a
Chief Defense Counsel and an Assistant Defense Coun-
sel on both officers in the United States Army, usually
of equal rank with the Trial Judge Advocate and Assistant
Trial Judge Advocate, are appointed to represent the
accused. In addition, the accused is permitted to have
qualified counsel of his own choice. In one case tried in the
Eighth Service Command, a German prisoner of war,
educated in law and versed in the English language,
assembled as special counsel in the defense of the accused.

Over 75,000 prisoners of war detained in the Prisoner
of War Camps in Texas, Oklahoma, Arkansas, Louisi-
ana and New Mexico are under the general court-martial
jurisdiction of the Commanding General of the Eighth
Service Command, and the many valuable rights just
enumerated are accorded to these prisoners in every trial
that is held.

The Geneva Convention2 provides that the prisoner
of war in every judicial proceeding shall have recourse
to the services of a competent interpreter. In every trial
in this Service Command, whether requested by
the accused or not, an interpreter of undoubted qualifi-
cations is provided. Not only is the testimony given by
the prisoners of war interpreted for the benefit of the
court, but in addition, the testimony of all witnesses
given in the English language is translated for the bene-
fit of the accused, unless he expressly waives it.

Even the same maximum punishments that may be
imposed on the American soldier for any particular
offense are applicable to the prisoner of war. Likewise,
the places of confinement are patterned after those design-
ated for our soldiers except, of course, that none is
placed in a rehabilitation center. Certain punishments,
although permissible under the laws of the detaining
Power, are prohibited by the Geneva Convention. In-
cluded therein are corporal punishment, imprisonment
in quarters without daylight, cruelty and collective pun-
ishment for individual acts.2 These prohibitions place
no additional limitation on the punishments imposed
by American courts-martial, as none of these is recog-
nized by our system of military justice. It is also inter-
esting to note that no prisoner of war may be deprived
of his rank by the detaining Power.

By Article 61 of the Convention it is provided that
"Every prisoner of war shall have the right of appeal
against any sentence rendered with regard to him, in
the same way as individuals belonging to the armed
forces of the detaining Power." When interpreted into an
American court-martial proceeding, this means that
every general court-martial conviction is first reviewed
as to sufficiency of evidence, procedural regularities and
propriety of sentence by the officer exercising general
court-martial jurisdiction over the accused, and next in
the office of The Judge Advocate General. Sentences
involving penitentiary confinement are reviewed by a
Board of Review in the office of The Judge Advocate
General and require approval of The Judge Advocate
General as is provided by Article of War 50 1/2. Death
sentences not only require such review and approval
but also confirmation by the President of the United
States under Article of War 48.

Such are the rights and benefits enjoyed by the pris-
oner of war who stands before the bar of an American
military court, each of which is reposed in our system
of justice. Additional protective measures are provided
by the Convention regardless of the laws of the detain-
ing Power. At least three weeks before the opening of
a trial, a representative of the protecting Power of the
prisoner of war charged must be advised of the name
and rank of the prisoner, his place of confinement, the
charges and specifications under which the accused is
brought to trial, the court that will try him, and the date
and place of trial.3 Representatives of the protecting
Power, which in this case is the Government of the

1"Article 46.
2"Article 60.
3"Article 62.

Page 22

THE JUDGE ADVOCATE JOURNAL
be secret in the interest of the safety of the Government. Sentences pronounced against prisoners of war must be communicated to the protecting Power immediately. If the death penalty is assessed, the protecting power must be advised in detail of the nature and circumstances of the offense for transmission to the power in whose Army the prisoner served, and the sentence may not be executed before the expiration of three months after this notice is given.

It is not infrequent that reports of escapes of prisoners of war are carried in the press, and no doubt this has caused speculation as to what action may be taken against them. It is not considered dishonorable for a prisoner to escape. On the contrary, it is a natural act and offender neither military honor nor moral law. In authoritative writings is to be found the statement that it is the duty of a prisoner of war to escape if a likely opportunity is presented. For him to escape is not considered a serious offense and subjects him to no more than disciplinary punishments. In legal terminology, the act is not malum in se but only malum prohibitum. Such a prisoner does not "escape from confinement" within the meaning of Article of War 69 applicable to our soldiers. Actually, it is "an unsuccessful escape" or "attempt to escape" because the escape does not become complete until the prisoner rejoins his Army or at least has succeeded in leaving the territory occupied by the detaining Army. While the attempted escape is made at the risk of the prisoner's life because the guards have the right to fire upon him if necessary to prevent his flight, when he is apprehended the maximum punishment that may be imposed is limited under the terms of the Geneva Convention to thirty days' confinement. Where a prisoner had the help of fellow-prisoners as confessors or accused in his escape, the punishment, not to exceed thirty days' confinement, may be imposed on him. Should the escaping prisoner commit some crime while in flight, the escape attempted may not be considered as an aggravating circumstance in the prosecution for his criminal act. But he may be punished for his criminal act, although committed in the furtherance of his escape. According to a prisoner of war who steals clothing to aid in his escape it is guilty of larceny. Any violation of our municipal laws committed by prisoners of war renders them subject to trial for the offense—be it murder, larceny, assault or breach of peace. News accounts have indicated the infliction of acts of violence by German prisoners of war on their fellow-prisoners in some of our camps. The alleged reasons for these assaults are not important to this discussion, but it is interesting to observe that when charges are preferred against those responsible for these acts, the accused advance the contention that since the affair was one involving only German prisoners of war, it is not a matter within our jurisdiction but one for the courts of the German Reich to determine at the close of war. Notwithstanding the splendid knowledge German prisoners of war generally have of the Geneva Convention, in this contention they are in error. No rule of land warfare is better settled than that prisoners must conform to the laws, regulations and orders enforced in the enemy's country. Another contention that has been asserted in cases involving assaults is that the victim was a scoundrel or stood in great disfavor with the majority of his comrades. The German prisoners are beginning to learn that in this country there is an equal justice and that protection and security from wrong are accorded to all within its boundaries, regardless of political view or factional alignment.

A recital of the facts pertaining to any specific trial of a prisoner of war must be premised in this discussion. For very good reasons the War Department has not made public these proceedings. It is appropriate to state, however, that this prisoner of war tried more than passing interest have taken place in the Eighth Service Command. It is safe to predict that when the veil of secrecy is removed from these events, it will be found that there have been added to the annals of American jurisprudence some highly significant chapters.

It is ironical, indeed, that our prisoners of war, members of armies representing nations that are seeking to destroy the principles upon which American justice is founded, should reap the bountiful fruits of the judicial system of the land where before its courts. Yet it is something to which we may point with pride. To all who come before the tribunals of this land there is guaranteed the right of an equal justice. Our courts do not have one kind of justice for our people and another for those who belong to the enemy. This is not merely a trite statement; it is a living fact. In recent months a German prisoner who was charged with a serious offense and tried in the Eighth Service Command, was found "Not Guilty" by a general court-martial.

There may be those who find objection in the scrupulosity with which these trials are held. But it must be remembered that these prisoners of war are not criminals merely because they are in the service of the enemy. The prisoner's imprisonment is a war measure only, and it has long been recognized that "captivity is neither a punishment nor an act of vengeance" but "merely a temporary detention which is devoid of all penal character." As soldiers in the armies of their country, their status is the same as that of our boys who are serving our country. To use the words of an eminent writer on this subject, "they are to be treated with humanity and with the consideration befitting their public relation." Then, too, let us not forget that our great struggle today has for its purpose the preservation of rights that only free and just tribunals can protect. If it would become this great nation to hold proudly before the world the justice of American justice, then shamefully prostitute it when applying it to others—yes, though, it be an enemy.

Nor does it appear that the attitude of fairness taken by this nation toward the legal rights of prisoners of war is of a unilateral nature. There recently appeared in one of our leading newspapers the account of the trial of three British officers by a German court. It was written by a repatriated internee. The officers in question attempted to tunnel their way out of a German camp. In the furtherance of this attempt some of the electric wiring in their barracks was displaced. Their escape was unsuccessful, and upon their return they were tried by a German military court for the destruction of this electric wiring. They were acquitted because it was shown that the wiring was merely ripped down for the purpose of tunneling. The important observation to be made on this incident is not whether such charges are within the contemplation of International Law but rather the fact that the accused were acquitted on the basis of what conveniently could have been termed by an unscrupulous court as an unimportant variance in the charge and the proof.

The time must never come when we should find ourselves contributing to the breakdown of International Law. Its influence in this great conflict must be preserved. That other powers may find occasion to violate its provisions, the acceptance of our own nation in this respect can serve as an example of close adherence to the provisions of the code of war. If our prisoners of war, for instance, are treated with unmerited harshness, it is to be hoped that throughout this war our country's example of close adherence to the provisions of International Law, the promise to violators of a day of strict accounting for infractions and the resort to authorized reprisals recognized by the laws of war will bring about at least a substantial compliance by the enemy nations with the provisions of the code of war.

Truthfully can this nation proclaim that by virtue of a genuine reverence for the principles of International Law and the strict application of the laws of this land, there is extended to our prisoners of war an equal and exact justice. So long as there be war, may this status be preserved!

Notes

(Continued from Page 16)

90. Section 9 (a).
91. Section 9 (g).
92. Section 10 (a). Loans and V-T Loans, which had been available to war contractors pursuant to Executive Order 912, on March 1942, were required to be presented before notice of termination. The statute now permits the guaranteeing of loans upon contracts subject to termination. The War Department is empowered by the mentioned Executive Order to make direct loans but such power has not yet been exercised.
93. Paragraph (g) of the Uniform Article specifies that "the Government shall make partial payments in proportion to the extent of 30% of the contract price whenever it deems it in the interest of national defense. By the First War Powers Act (Executive Order 6301), the Secretary of War was authorized to extend advance payments to the full value of a contract. By the uniform advance payment article (PR 5-417) the sum is increased with a trust for the purposes of the contract for the performance of which it is advanced.
94. Partial payments are predicated upon work done by the contractor upon goods which are completed under contract with the Government. PR 9-590 and PR 6-850, set forth alternatives upon which to base such payments: first, where payments are made up to 75% of the contractor's costs and the latter 50% of direct labor and material costs, both limit the amount payable to 80% of the contract price. Where partial payments are made, title to the goods forming the basis of the payments passes to the Government.
95. Paragraph (g) of the Uniform Article specifies that "the Government shall make partial payments in proportion to the extent of 30% of the contract price whenever it deems it in the interest of national defense. By the First War Powers Act (Executive Order 6301), the Secretary of War was authorized to extend advance payments to the full value of a contract. By the uniform advance payment article (PR 5-417) the sum is increased with a trust for the purposes of the contract for the performance of which it is advanced.
96. Partial payments are predicated upon work done by the contractor upon goods which are completed under contract with the Government. PR 9-590 and PR 6-850, set forth alternatives upon which to base such payments: first, where payments are made up to 75% of the contractor's costs and the latter 50% of direct labor and material costs, both limit the amount payable to 80% of the contract price. Where partial payments are made, title to the goods forming the basis of the payments passes to the Government.
97. Paragraph (g) of the Uniform Article specifies that "the Government shall make partial payments in proportion to the extent of 30% of the contract price whenever it deems it in the interest of national defense. By the First War Powers Act (Executive Order 6301), the Secretary of War was authorized to extend advance payments to the full value of a contract. By the uniform advance payment article (PR 5-417) the sum is increased with a trust for the purposes of the contract for the performance of which it is advanced.
98. Sections 13 (e) and (f).
99. Section 14 (a).
100. Sections 15 (a), (b), (c), (d), and (e). 
101. Section 16 (a).
102. Sections 17 (a), (b), and (c).
103. Chapter 12, Title 47, United States Code, contains the laws governing the settlement of government contracts.

THE CRIME OF TREASON

(Continued from Page 20)

the traitorous at heart who perform an overt act to the detriment of the people of the United States. Considering the size of this nation, its mixture of peoples, its cross-currents of ideas and ambitions, its varying scales of social and economic well-being and the possibility of abuse of its guaranties of freedom of speech, press and assembly, comparatively little has had to be made to the treason and allied statutes. Such has been the fortunate lot of the people of this country.

Page 24
MANEUVERS WITH A STOCKADE

By Colonel Robert V. Laughlin, JAGD
Judge Advocate, Second Army

An infantry division should not have an average of over 26 men in the guardhouse. This article is designed to show how the Judge Advocate can reach and maintain this low figure. During the 1943 Tennessee Maneuvers the infantry divisions reporting to that area usually arrived with 75 to 125 prisoners. By adoption of the policies and procedures hereinafter described, these numbers were immediately reduced to an average of 20 per division. All figures set forth herein are based on careful records of an average of 87,218 troops in the maneuver area over a period of nine months operation.

There were confined in the Second Army Stockade, during the nine months, an average of 1.46 men per thousand troops (Figure 1). There is an interesting contrast between this figure and that of the Tennessee Maneuvers of the preceding summer (17 September to 17 November 1942). With approximately 75,000 troops participating in that maneuver, the number of prisoners confined in the Stockade during that period reached a peak of 750. At the close, there were approximately 150 in the stockade.

The figure of 1.46 per thousand was reached and maintained by the construction of an adequate stockade, by its efficient administration, and by the adoption and enforcement of certain definite disciplinary policies.

An inspection by the Army Judge Advocate, upon the inauguration of the 1943 maneuvers, disclosed unsatisfactory conditions in the stockade. He found the prisoners housed in pyramidal tents, sleeping on wooden bunks and as many as twelve men assigned to one tent. Drainage and other sanitary conditions were unsatisfactory. A spirit of hopelessness pervaded the place. The location of the stockade was such that changes desired in the physical setup could not be accomplished economically or practically. Accordingly, a new site was selected and a stockade constructed that would meet the requirements for proper administration, discipline and sanitation.

This stockade was constructed during May and June of 1943 and was ready for occupancy on 1 July, the beginning of the second maneuver (July-August 1943). A double wire fence was used to surround the properly partitioned rectangular enclosure, guard towers were
built at the four corners and an adequate administration building was constructed (Figure 2).

It was realized that living conditions in the stockade could not be made more comfortable than those enjoyed by the troops; otherwise the stockade would be an attraction instead of a deterrent. Consequently, field conditions as nearly as possible similar to those confronting the troops were provided. Pop tents were used in all areas instead of pyramidal tents (Figure 3). Two pyramidal tents were set up for use when close confinement was deemed necessary. These two tents are shown in the immediate foreground of the stockade area in figure 2. It was necessary to use them only a few times.

A policy of strict military discipline was immediately adopted at the new stockade (Figure 4). Discipline and hard work under field conditions had a very salutary effect and it was interesting to see the psychology of the whole place change. Instead of the let-down, defeatist attitude which had characterized many prisoners in the former stockade, the spirit of the men seemed to resurge and instead of wanting to stay in the place, there was not a man who did not prefer his unit to the stockade.

The Army Commander determined that every man, in so far as possible, would receive the training which the maneuvers were designed to give. The stockade would not be filled with men missing that training. It would be made available only for those prisoners for whom close confinement was considered necessary. Accordingly, the policy was adopted that punishment by either Summary or Special Courts-Martial in the nature of restriction, detention or forfeiture of pay, but without confinement, would be used unless the case was so aggravated that confinement was imperative; that punishment authorized under Article of War 104 was recommended whenever practicable; that soldiers voluntarily surrendering to military control from an AWOL status would not normally be committed pending charges and trial; that, unless confinement was necessary, soldiers awaiting trial would be retained by their organizations pending such trial. When confinement was deemed necessary, the soldier would be confined upon written request which would include a statement that he would be called for within a period not to exceed eight days. If the prisoner was not called for within that time, he was returned under guard to his organization. An occasional exception had to be made to this rule, but only where written request was made to the Army Commander by the Division or Corps Judge Advocate or the commanding officer of the prisoner’s organization.

The administration of the stockade was also designed to accomplish the above policies. Soldiers arrested by Military Police in Nashville and similar recreational centers for minor violations of rules governing week-end passes, AWOL not exceeding thirty days, drunk and disorderly conduct, or any offense for which the maximum punishment (Par. 104, MCM, 1928) did not permit a sentence in excess of four months confinement and forfeiture of pay for a like period, and which in the judgment of the Prison Officer was one that did not warrant confinement, were returned expeditiously to their organizations.

All prisoners received at the stockade were regarded as casualties to the Commanding Officer, Military Police Units, Maneuver Director Headquarters, who was given Special and Summary Courts-Martial jurisdiction, to be exercised when deemed advisable.

An officer of the Judge Advocate Section, daily at about 1830, interviewed all prisoners committed during the previous twenty-four hours. These interviews, which were attended by the Prison Officer and the Commanding Officer, Military Police Units, resulted in the return of many prisoners to their organizations in line with the existing policies. Once each week, prisoners’ records were reviewed. If the conduct of a prisoner was such that he gave promise of rehabilitation, his confinement was suspended by the Commanding Officer, Military Police Units, Maneuver Director Headquarters, and the soldier returned to his organization. During the maneuvers approximately 2,000 prisoners confined in the stockade with sentences of confinement at hard labor had their sentences suspended and were returned to their organization. Of this number, during the nine months the system was in operation, only about one out of every hundred had their suspension vacated and were returned to confinement.

As an aid to rehabilitation, the Army Commander authorized his Judge Advocate to summarily effect the transfer of as many as ten men per month from their organizations to other Second Army units. This took care of the comparatively few cases of obvious misassignment. A small group of bad actors committing serious crimes for which adequate punishment must be imposed can
normally be expected. Confinement must be imposed until this type can be tried and sent to a Federal Prison, Disciplinary Barracks, or Rehabilitation Center. However, about 99% of the men confined in guardhouses are there on charges which result from poor adjustment to Army discipline. These are generally men struggling with the problem of themselves, but they call it the Army. If the stockade is to be operated as nothing more than a confined group of men in fatigue clothing doing enforced hard labor, little rehabilitation can be expected. A guardhouse operated without foresight and constant attention will prove a constant focus of infection in the command. The guardhouse cannot be substituted for leadership.

It is recognized that this ratio of 1.46 men per thousand may be justifiably exceeded in cases of concerted actions by soldiers, as for example mutiny; however, it has been definitely adopted as a view by Second Army Headquarters that the number of men in the guardhouse is an index to the discipline of a command and the efficiency of the administration of military justice by commanding officers.

On 6 January 1944, General George C. Marshall issued a memorandum stating:

"The present manpower situation is critical. The industrial, as well as armed force requirements are pressing and must be met. We are now receiving from Selective Service men who heretofore have been deferred for dependency reasons. The country cannot afford, nor the Army tolerate, any wastage of suitable manpower. The solution lies in the proper exercise of command functions and it is desirable that this matter be given personal and continuing attention." (Lt AGF 320.2/7002 (12 Jan 44) GNAP, Subject: "Utilization of Available Manpower").

It has been adopted as the view of this Headquarters that there is no more serious wastage of manpower than having an excessive number of men in the guardhouse. Attention of all Second Army units has been directed to this wastage of manpower by a personal letter of the Army Commander, in which he recited that the reduction of the excessive numbers of men in the guardhouse, and the restoration of those prisoners who merit it, is a primary concern of command. Accordingly, the following standard was set up as a basis for appraising this important function of command in all Second Army Units:

<table>
<thead>
<tr>
<th>Number of Men in Confinement per 1000</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 or less</td>
<td>Superior</td>
</tr>
<tr>
<td>Over 2 but not in excess of 3</td>
<td>Excellent</td>
</tr>
<tr>
<td>Over 3 but not in excess of 4</td>
<td>Very Satisfactory</td>
</tr>
<tr>
<td>Over 5 but not in excess of 6</td>
<td>Satisfactory</td>
</tr>
</tbody>
</table>

The results achieved in the Maneuver Area are attributable to the daily visits of the Army Judge Advocate to the stockade, and his personal interviews with the prisoners. With this program, the Judge Advocate serving with troops has an opportunity to give the greatest aid to his unit commanders in their disciplinary problems, particularly where the successful solution depends upon a personal appraisal of the individual offender. The company commander today is usually a youth, inexperienced in military justice and discipline. The frequent changes in his personnel, the arduous training requirements and administrative responsibilities placed upon him leave him little time to know his men. The Judge Advocate can best fill this gap of inexperience and lack of training. It is his duty to help the Company Commanders. He should seize the initiative and take proper steps to see that a program of regular visits and interviews with prisoners in confinement is made a part of his commanding officer's disciplinary policies. It is believed that such a program is the most effective means of preventing wastage of manpower in the guardhouse and keeping the number of trials by courts-martial in the organization at a minimum.
AMG Military COURTS

By Major William F. Waugh, JAGD

A. M.G. Military Courts are established for the trial of civilians charged with offenses against the Law of Military Government. Specifically, the jurisdiction of every Allied Military Government extends to all persons in the Occupied Territory, except members of the Allied Forces and persons who are treated in prisoners of war under the Geneva Convention of July 27, 1929; and over all offenses against the laws and usages of war; all violations of proclamations, orders and regulations issued by the Allied Military Government; and offenses against the laws of the occupied country.

The members of all Courts are officers of the Allied Forces appointed by or on behalf of the Military Governor (the General Officer commanding a Task Force). The difference between the various Courts lies in the number of officers composing them and in their powers of punishment. There are three classes of Courts:

GENERAL COURTS of one officer, who shall be a Judicial Officer (if available). They are empowered to impose any lawful punishment, including death.

SUPERIOR COURTS of two or more officers (at least one of whom shall be a Judicial Officer), or one Judicial Officer if he has been specially authorized to sit alone. They are empowered to impose any lawful punishment other than death or imprisonment for more than ten years.

SUMMARY COURTS of one officer, who shall be a Judicial Officer, if available. They are authorized to impose any lawful punishment except death, or imprisonment for more than one year, or fine of more than 50,000 lire, or both such fine and imprisonment.

Every officer of the Allied Military Government who is a qualified lawyer is deemed to be a Judicial Officer, and the Senior Judicial Officer present is always President of the Court.

No provision is made for the challenging of members of the Court, either peremptorily or for cause. It is provided, however, that "the following are disqualified from sitting on any Allied Military Court:

Public Safety Officers while acting as such;

Any officer who has been part in the investigation of any case to be heard before that Court;

Any officer who may be prejudiced by personal knowledge of the facts of the case or otherwise."

In addition to the imposition of fines and imprisonment the Courts are empowered, among other things, to direct that a defendant establish his residence within a specified area; forfeit property wrongly used; padlock premises; and suspend sentences during good behavior. They may also grant bail, punish contempts, and, generally, make such orders and do all acts and things as may be requisite for the due administration of justice.

Every defendant is entitled to have a copy of the charges upon which he is to be tried, in advance of trial; to be represented by counsel; to apply for time in which to prepare his defense; to have witnesses summoned; to testify in his own behalf (but he may not be compelled to do so); and to have the proceedings translated for his benefit. Every accused person is presumed to be innocent until he is proved guilty, and Military Courts will not convict unless they are satisfied, beyond a reasonable doubt, of the guilt of the accused. In every case in which the accused may be condemned to death, he must be represented either by a civilian lawyer or by an officer who is a qualified lawyer. In every such case the Court is required to enter a plea of "not guilty" on behalf of the accused. All witnesses are required to give their evidence under oath, and all (including Allied Officers) are excluded from the Court during the opening statement by the Prosecutor and until they have given their testimony.

All questions are determined by a majority of the members of the Court, and include findings of guilty and the imposition of punishments. The Judicial Officer serves in an advisory capacity, and does not rule upon interlocutory questions as does the Law Member of a General Court-Martial. At the conclusion of the evidence the accused or his counsel sums up and is followed by the Prosecutor. There are no limitations upon the lawful punishment which a General Court may impose, except that the death penalty may be inflicted only in cases in which it is specifically authorized by the Proclamation. Proceedings are public, except when otherwise ordered. Espionage and sabotage cases are usually heard in camera for reasons of military security.

A complete record is kept in every case in a General or Superior Court, and it includes all the material evidence of every witness. The evidence is recorded in narrative form by a member of the Court, except when a stenographer is present. No stenographer or court reporter has been available for service in any A.M.G. Court to date.

Any person may, within thirty days after the imposition of sentence, file a petition for review. The record
of every case in which the sentence exceeds two years imprisonment or a fine of 50,000 lire (five hundred dollars) is reviewed whether a petition for review is filed or not. The reviewing authority has the power to set aside the conviction; suspend, reduce or commute the sentence; or to order a new trial. No sentence of death may be executed unless and until it has been confirmed in writing by the Military Governor, or by a specified officer, not below the rank of Brigadier General or Brigadier, to whom he may have delegated such power in writing.

The rules of evidence before A.M.G. Courts are somewhat relaxed. It is provided that "An Allied Military Court shall admit such evidence as in its opinion is relevant and material to the charges before it and shall, in deliberating on the judgment in each charge, take into consideration the nature of the evidence produced and the degree of reliance which can reasonably be placed upon it." It is further provided that, under the preceding rule, "when evidence is tendered to an Allied Military Court and such evidence might normally in a Criminal Court of the United States or Great Britain be objected to on the ground of hearsay or for any other reason, the Allied Military Court need not reject such evidence, provided it is relevant and material to the charges before the Court, but will in considering its judgment take into consideration the nature of the evidence and the degree of reliance which can reasonably be placed upon it, and will reach a conclusion accordingly."

The purpose of these rules of evidence is to meet the unusual conditions which are often encountered in occupied territory, and to meet hear-say evidence provided that the Court "need not reject such evidence." In practice hearsay evidence is admitted only where the absent witness has died, or has been severely wounded, or has been transferred to another theater of operations, or is unavailable for some other similar reason. In situations of that character the hearsay evidence admitted is usually limited to written statements made by the witness at or about the time of the occurrence mentioned therein. In determining "the degree of reliance which can reasonably be placed upon such evidence" the Court always considers the fact that the author of the statement was not under oath, and was not subject to cross-examination, and that the Court had no opportunity of observing his demeanor while upon the witness stand.

The broad rule above stated also permits the receipt in evidence of confessions which were not made voluntarily, and, contrary to the usual rule, A.M.G. Courts may convict upon the unsupported confession of the accused. However, the Courts receive confessions with extreme caution and make careful inquiry into the circumstances under which they were made or obtained. Where it appears that the confession was induced by hope of benefit, or fear of punishment or injury, those matters are considered by the Court in determining its value as evidence. Where it appears that the confession was obtained by force, corroboration is required. A distinction is made between the testimony of an accomplice given in open court, and a confession by an accomplice which implicates the accused. The former, uncorroborated, may support a conviction, while the latter must be amply corroborated.

Arrests on suspicion are authorized and the prohibitions against unreasonable searches and seizures are relaxed. It is provided that any authorized member of the Allied Forces may: (a) arrest or search any persons suspected of having committed or being about to commit offenses under any proclamation or order; and (b) enter and search any place and seize and take away any property for the purpose of investigating any such offense or arresting the offender, or preventing any such offense, where there are grounds for believing that it is intended to be committed.

An A.M.G. Court may, where no procedure has been directed in any matter which arises, adopt such procedure as it thinks fit, provided no injustice is thereby done to the accused.

A.M.G. General Courts are usually composed of officers of America and the United Kingdom. The Court of which the writer is President, which has been engaged continuously for months in the trial of alleged spies and saboteurs, consists of a Major in the Army of the United States, a Squadron Leader of the R.A.F. (equivalent to Major), and a Major of the Canadian Army, all of whom are Judicial Officers. In two instances, where the accused were charged with the murder of French soldiers, the Courts consisted of an American, a British and a French officer.

Notwithstanding the differences in the systems of jurisprudence in the countries comprising the Allied Nations, the Courts have encountered no conflicts of legal principles or viewpoints of individuals which have proved to be irreconcilable.

Persons arrested are brought to trial as soon as practicable and are accorded a fair and impartial trial. Sentences are imposed which not only serve to punish the offenders, but which will also serve as a deterrent to others and thereby safeguard the fighting forces and their lines of communication.

A.M.G. Military Courts are empowered to and do occasionally try offenders against the laws of the Occupied Country, where civilian courts are not functioning or where it is believed to be undesirable to allow any case or class of cases to be brought before the native courts. Persons, so tried, on conviction are punished as provided by such laws. This power is exercised only when absolutely necessary.
15TH AAF IN ITALY—Military justice procedures and office organization devised for the needs of mauled ground troops, require some revision to be suited to the modern air force. As the second largest Air Force in the world, the 15th AAF has furnished an excellent proving ground for these revisions. While the fundamental principles enunciated for the guidance of Judge Advocates in the field in general have been found adequate and effective, the wide dispersion of component organizations and the decentralization of command functions in the air forces have given rise to exigencies which in turn require an improvisation of technique.

Naturally the principal problem is the speedy disposition of charges—so that the accused shall have ready recourse to the place of his judgment, and that offenses shall be speedily punished. Two obstacles to this end were found in the air force. First, there is a shortage of trained personnel. War experience has long since demonstrated the value and economy of utilizing legally trained officers as trial judge advocates and defense counsel—on a full time basis. This has been found to eliminate errors and reduce delays. However, the stream-lined manning tables of a strategic combat air force includes few men with legal training, and these few usually have exacting and paramount duties to discharge, which prevent any specific organization of legal functions in subordinate units.

The second obstacle is the physical dispersion of bases and personnel resulting from tactical considerations. Not only are the 15th AAF bomber and fighter bases scattered over southern Italy, but personnel of the court, prosecution and defense, are likely to be found high and personnel resulting from tactical considerations. Charges, which present any specific organization of legal functions in subordinate units.

Of necessity these positions are absorbed in the manning tables of the Judge Advocate Section, 15th AAF Headquarters, which limits the personnel available for other sections of the office. However, reduction in delays and procedural errors has more than justified the sacrifice of position vacancies normally due other sections. In this manner the trial function is brought under the direct supervision of the Staff Judge Advocate, and at the same time, independent of, and dissociated from, the function of review, which is discharged by the Military Justice Section of the office.

The trial section operates much in the manner of the circuit courts of the past, when the judge and clerk would travel from court to court to fill docket engagements. General courts-martial are appointed at convenient locations, from officers of nearby air bases, and cases are then referred to the nearest court. The trial personnel in each instance are furnished by the trial section of Headquarters, Moving from place to place—"flying circuit rider"—they attend the several courts as cases are reached for trial.

The work of the trial section is supplemented by designation of another member of the Judge Advocate Staff, who upon request from subordinate commanders, is made available to assist in the investigation and preparation of more difficult cases.

The Staff Judge Advocate Section is headed by Colonel Thomas H. Goodman, JAGD, of Knoxville, Tennessee. Other members of his office include Major Walter A. Edmiston, JAGD, Executive Officer from Chicago, Ill.; Major Richard B. McDermott, JAGD, Tulsa, Okla., and Capt. Charles T. Smith, JAGD, of Rockford, Ill., who are responsible for the Military Justice Section. Claims and Boards proceedings as well as special investigations fall to the lot of Capt. Jacob W. Durham, AC, of Lostin, Texas. The trial section consists of Major George O. Hanford, AC, Hardwick, Vt., defense counsel; Capt. B. Burton Gullett, AC, of Nashville, Tenn., trial judge advocate; and 1st Lt. Jim C. Galloway, AC, of Memphis, Tenn., assistant trial judge advocate. Each of the above officers is a member of the Bar of his home state.

In the Air Force everything is accelerated; your way of living is speeded up. This system of using a trial section has resulted in a minimum consumption of the time of combat personnel by military justice duties, and at the same time gives the accused the right to a prompt trial of his charges.

Air Force justice is fair—and it's fast.
Marine Claims AT NEW YORK PORT

By COLONEL ARTHUR LEVITT, JAGD, Port Judge Advocate

THE large volume of shipping conducted at the New York Port of Embarkation via lighter to shipside and pier, resulting in considerable congestion in the pier slips, inevitably gives rise to an increasing number of maritime accidents and incidents occurring in and about the Port waters. When such incidents involve Army-owned or bare-boat chartered vessels, cargo, waterfront facilities under the jurisdiction of the Transportation Corps, damage caused to vessels or cargo by War Department or contract stevedores, (all of which are specifically defined in Par. 2 b, AR 55-500) they are considered marine casualties and are investigated under the procedure set forth in AR 55-500, 3 July 1943. The extent and variety of such casualties are indicated in the following summary of incidents reported during the period commencing on 22 November 1943 and terminating on 1 July 1944:

<table>
<thead>
<tr>
<th>Type</th>
<th>No. of Incidents</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Collision between vessels</td>
<td>189</td>
</tr>
<tr>
<td>b. Damage during towage</td>
<td>22</td>
</tr>
<tr>
<td>c. Damage to piers caused by vessels, Army-owned and others</td>
<td>37</td>
</tr>
<tr>
<td>d. Damage to vessels by stevedoring operations</td>
<td>77</td>
</tr>
<tr>
<td>e. Damage caused by heavy weather to vessels at piers</td>
<td>17</td>
</tr>
<tr>
<td>f. Grounding</td>
<td>1</td>
</tr>
<tr>
<td>g. Cause unknown</td>
<td>54</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>327</td>
</tr>
</tbody>
</table>

The above recapitulation has not taken into account incidents resulting in damage to Army cargo occurring during the course of loading or discharge of such cargo by contract stevedores, which average approximately $1500 a month and equals in volume the entire load per month of non-cargo incidents. The extent of damage in non-cargo incidents ranges from small claims resulting from light collisions between barges in the congested slips to instances of extensive damage caused, for example, when a flotilla of 16 barges broke loose from an Army steakeboat during a violent storm, were buffeted about the harbor and sustained damage estimated to exceed $50,000. Noteworthy also is the series of incidents growing out of the return to this Port of vast amounts of salvaged war material from the battle fronts. This scrap material, heavy and unwieldy, was transferred from ocean-going vessels to a salvage collection center by barge and then unloaded at the center by means of a land-based clam-shell bucket or magnet type crane. In a single week eight incidents involving damage totaling approximately $30,000 were reported. In all such cases it was alleged that the damage resulted from the negligent loading of and/or discharge of lighters by Army stevedores operating the cranes. The average marine casualty has resulted in damage of approximately $1500.

I now consider the methods adopted at the Port to dispose of marine claims both against and in favor of the Government, and some significant features of investigative technique used which have resulted in substantial monetary savings to the Government.

A claim against the Government arising out of a marine casualty not in excess of $1000 is payable under the terms of the Act of 3 July 1943. The delegation of authority to the Chief of Claims Branch discussed earlier has been utilized to dispose of this type of claim, as the delegation under Par. 22 e, AR 25-25, embraces "all acts and incidents occurring within the geographical limits of the Service Command." (In connection with marine casualties, it is interesting to note that Par. 22 b, AR 55-500 confers the authority to pay or disapprove marine claims within the coverage of the Act upon the Commanding Officer of any port of embarkation or upon any officers on his staff designated by him.) The delegated authority has not been exercised in all marine claims, however, because the War Department has entered into an agreement with the War Shipping Administration whereby the latter has assumed the responsibility of paying many of the liabilities of the War Department to third parties arising from marine casualties occurring on or after 24 March 1943. The insurance coverage provided by the War Shipping Administration is furnished under a Master Policy A-H which has been endorsed to include named risks which in commercial practice would be included in various clauses of Hull and P & I (Protection and Indemnity) policies. Since the coverage offered may be subject to court and administrative decisions from time to time, a categorical list of cases coming within the purview of the policy is impractical. However, the War Shipping Administration has indicated examples of liabilities intended to be covered by the policy. Typical of those arising from incidents occurring at the Port frequently are the following:

1. Liabilities for damage to a privately-owned vessel or other privately-owned property arising out of a collision between such vessels; and an Army-owned or bare-boat chartered vessel;

2. Liabilities arising out of a towage operation performed by an Army tug;

3. Total loss and/or constructive total loss of and/or agreed total loss of vessels owned by or chartered to the War Department and/or Army to the extent that the War Department may be liable under the charter to the vessel owner for damage sustained during the period of charter. In connection with this item, there have been forwarded to the War Shipping Administration all claims for damage alleged to have been sustained by Army bare-boat chartered vessels during the period of charter;

4. Liability, if any, for damage to privately-owned cargo or other privately-owned property aboard an Army vessel or while being loaded thereon. The wide coverage furnished by WSA has, in practice, restricted the field of administrative settlement of marine claims by the Port to those claims relating to vessel damage caused by Army stevedores during the course of loading and/or discharge of lighters and to claims for damage to privately-owned docks and other structures caused by Army-owned or bare-boat chartered vessels.

Pursuant to the agreement between the War Department and the War Shipping Administration, investigation...
of all cases falling within the insurance program are made by a Marine Casualty Investigating Officer, appointed under Par. 6, AR 55-500, by the Port Commander, whose qualifications, however, are required to be approved by the War Shipping Administration before the appointment is made. In all WSA cases, however, the Army is relieved of the burden and responsibility of negotiating the claim and of actually making payment.

The Marine Casualty Investigating Officer must be experienced in the conduct of investigations and preferably trained in maritime law (Par. 6 a, AR 55-500). The latter qualification is, of course, necessary to insure that the investigator's report will contain all the facts necessary to determine the question of liability. Since the solution to questions of liability in admiralty cases frequently depend on interpretation of rules peculiar to admiralty law, the requirement of training in maritime law is basic.

Due to the large volume of maritime incidents occurring at NYFE, it was found advisable to establish within the Judge Advocate & Claims Division a section devoted exclusively to marine investigations. The primary objective of the section has been to effect a full and speedy investigation as soon as possible after the occurrence so as to achieve the following three purposes:

1. Prevent payment of unjust or excessive claims and expeditious ascertion of meritorious claims in favor of the Government.

2. Compile a known record sufficiently comprehensive to provide a sufficient basis for all official action required by the circumstances.

3. Eliminate conditions or practices which cause or contribute to marine damage. The section is manned by two Marine Casualty Investigating Officers, two Assistant Investigating Officers and several enlisted men. One officer and an Assistant Marine Casualty Investigating Officer are designated to prepare reports on collision, stevedoring and dock damage incidents. The other Marine Casualty Investigating Officer and an Assistant Investigating Officer investigate and prepare reports on cargo incidents.

Investigating Officers have attempted scrupulously to follow the requirements of Par. 11, AR 55-500, which specify the points with respect to which information must be obtained and included in the report. The procedure recommended by WSA is so similar to that prescribed in AR 55-500 that in practice all investigations are conducted in an identical manner and are conducted by the same officers. A thorough investigation of the facts in admiralty claims against the United States is particularly important, because the United States has waived its right to sovereign immunity from suit and has consented specifically to be liable for loss to property, secures photographs if warranted and then the evidence they need by interviewing employees while the latter are engaged in their usual work. In this manner important operations of the Port are not subjected to more interruptions than are absolutely necessary.

Whenever the evidence reveals some questions as to the propriety of a particular marine practice involved in the incident, a statement from a competent expert is necessary. Preferably a mariner with long experience, is generally secured so that the record indicates the prudent course that should have been followed in the circumstances disclosed by the case under investigation.

The Investigating Officer always attempts to procure a weather report covering the area in which the incident occurred and any notice of storm warnings published by the Weather Bureau prior to the time of the occurrence in those cases where the condition of the weather before and after the time of the incident is important to the determination of liability.

The importance of having a trained surveyor available for instantaneous duty at the call of the Investigative Branch has been demonstrated in a number of cases, where prompt inspection of damage by the surveyor has resulted in substantial monetary savings to the Government. Several such instances come to mind:

a. On 26 March 1944, a privately-owned tug under charter to the Army was lying at the end of Pier 15, Staten Island Terminal. At approximately 1130 on that day an Army tug boat approached Pier 15 and in attempting to reverse her engines an air lock developed so as to delay the backward movement intended. The Army tug thereupon struck the privately-owned tug and crushed it against the concrete pier. The Army tug had to be berthed for six hours in order to effect repairs. The question of liability was considerably simplified by the Marine Casualty Investigative Section of the Judge Advocate General's Office.
one of the Marine Superintendents attached to the Water Division, were engaged in another investigation at Staten Island Terminal. Within less than one-half hour after the incident occurred, the Investigating Officer and the Marine Superintendent had boarded the privately-owned tug and were engaged in conducting a complete investigation of all possible appearances of damage. At a formal survey held approximately three weeks later while the privately-owned tug was in dry dock, the owner’s representatives demanded large and substantial damages, claiming that the basic structural condition of the tug had been impaired by reason of the collision and that the Government was liable for damages in the sum of $6,000.00. When the owner and his surveyors were confronted with the detailed record of damage observed on the day of the accident, the owner’s representatives abandoned their original contention and agreed to compromise the damage for the sum of $1,000.00.

b. On 8 February 1944, a deck scow was chartered to the Army and was towed by an Army-owned tug to the Port Johnston Terminal for loading. Within a very few minutes after the arrival of the scow at the dock, she began to settle into the water and in a short time had almost completely sunk. The tugmaster reported the incident and was then ordered to remove the scow to a dockyard which was immediately done. Report of the incident was then made to the Investigative Section. Investigation by the Army surveyor disclosed that one of the port planks had practically dropped out. When the scow owner was advised of the condition of the port plank and upon realizing that the Army had discovered the true cause of the sinking, he agreed to file any claim against the Army, even though the charter relationship had commenced.

On still other occasions expert knowledge of ship repairs and ship construction by the surveying officers has been instrumental in greatly reducing the size of claims. In October 1915, a privately-owned scow was seriously damaged while moored at Port Johnston Terminal, NYPE. Certain cables on an Army crane used to load a 12,000-ton ship slipped and permitted a 19-ton Osgood crane, then being transferred to the vessel, to drop a considerable distance to the deck of the barge and to damage the latter. At the survey it was discovered that the damage sustained by the barge was very serious because five intermediate deck beams on the barge were so badly broken that they could not be repaired. It was also found that 77 foot lengths of deck planking had been completely shattered. It was contended by the owner that the cost of repairing the damage sustained by the intermediate deck beams on the barge would run into approximately $10,000.00, as it would be necessary to disassemble many of the parts of the scow to effect the required repairs. However, the technical representatives of the Water Division and of the Investigative Section succeeded in convincing the owner it was practical to reinset the deck beams by a much simpler method and at a cost of approximately $3,300.00. The owner thereupon filed a claim in the reduced amount.

It is sometimes necessary for the Investigating Officers to keep a watchful eye open for the detection of attempts to assert exaggerated claims based upon collusion between the claimant and the shipyard at which the repairs are made. In this type of situation, too, the skilled technique of the trained surveyor has been of much assistance in ascertaining the fair cost of making repairs and in obtaining a modification of claim to the reduced amount. I am reminded of an interesting occurrence illustrating this point. At a survey of damage sustained by a scow held some time in April 1914, there was a great difference in the cost of making repairs estimated by the representative of the scow owner and the shipyard’s surveyor and the figure estimated by the Army surveyor. The former maintained that the damages could be repaired in the sum of $2,510.00, while the latter insisted that the fair price for the entire work would be approximately $1,250.00. The adverse interests offered to reduce their claim to $2,000.00. The Army surveyor, however, refused to sign the survey and maintained steadfastly that the lower figure of $1,250.00 was the correct amount. The Investigative Section soon determined, however, that the owner of the shipyard, at which the scow was repaired, was a part-owner of the corporation owning the scow. It was obvious, therefore, that the shipyard’s estimate was biased and intended to exaggerate the cost of repairs. Ultimately the scow owner agreed to accept the cost of repairs indicated by the Army surveyor.

The surveyor also performs a valuable service in inspecting and noting the condition of scows about to be bare-boat chartered to the Army. A vessel is said to be bare-boat chartered “when the vessel is turned over completely to the charterer who mans her and operates her throughout the period of the hire.” (Robinson on Admiralty, p. 394). Most scows chartered to the Water Division, N.Y.P.E., are delivered under an informal, oral bare-boat charter which requires the Army to return the scow to the owner at the expiration of the charter period in as good condition as when received, less reasonable wear and tear. The charter hire is generally set at a stipulated sum per day and includes the services of a scowman who is paid by the scow owner. The pre-charter inspection made by the Army Surveyor focuses on the existence of damage existing at the inception of the charter and precludes successful assertion of claim by the scow owner, when the scow is delivered at the expiration of the charter, that such damage was caused by the negligence of the charterer during the charter period. The burden is always upon the charterer to overcome this presumption by presenting affirmative proof indicating how the barge was damaged or that it was not due to the negligence of the charterer (Alpine Forwarding Co. v. Penn. RR, 60 F. 2d 734, cert. den. 287 U.S. 647). Moreover, under the Act of 3 July 1912, as interpreted by Army Regulations (Par. 6, AR 25-25), if the claimant indicates that the damage occurred while the scow was "hauled to the Government," his claim has to be allowed. In the absence of a pre-charter survey, it is evident that it would be difficult for the Army to refute the contention of the scow owner that at the inception of the charter, the scow did not contain the damage alleged to have been caused during the period of charter.

It should be observed that where the evidence discloses that a meritorious claim exists, the Investigating Officer determines whether the claimant intends to assert a claim against the Government. If the claimant there-
upon makes inquiry as to the procedure whereby a claim may be filed, the injured party is advised of his rights and instructed in the rules covering filing of claims (Par. 11, AR 55-500).

Marine casualties resulting in claims in favor of the Government are investigated under the provisions of Par. 27, AR 55-500. Claims in favor of the Government include damage to Government property occurring as a result of a marine casualty as well as the expense or loss sustained by the Government incident to injury or death of military personnel in a marine casualty (Par. 27 5, AR 55-500). Investigation in these cases, however, need not and is not undertaken unless the damage sustained by the Government is in excess of $100.00 (Par. 8, AR 55-500).

The chief type of claim in favor of the Government processed at the New York Port is that arising out of damage to Army cargo occasioned by the negligence of stevedores engaged in loading or unloading lighters. Such work is performed by contract stevedoring concerns under a contract which provides that the contract stevedore shall be responsible for damage caused to cargo, vessels, piers, barges, etc., arising through the negligence or fault of the contractor, its employees, gear or equipment. During the past two months, 90 incidents involving cargo damage have been reported and investigated and claims in excess of $6,000.00 have been asserted on behalf of the Government against contract stevedores. Approximately one-third of the amount claimed or the sum of $2000 has already been collected.

Investigation of a cargo claim requires the closest possible coordination of effort between the Investigative Section, pier officers and the supply officers. As soon as an incident occurs resulting in the loss of cargo, the pier officer prepares and forwards to the Investigative Section a report inclosing statements of all available witnesses to the occurrence. An investigator immediately contacts the shipyard personnel involved, secures the value of the damaged cargo and its ultimate disposition and files a claim with the contract stevedore for the value of the damaged articles together with freight costs to shipside. Prompt action in such matters not only serves to re­turn to Government property occurring as a result of a marine casualty (Par. 12, AR 55-500). Investigation in these cases, however, need not and is not undertaken unless the damage sustained by the Government is in excess of $100.00 (Par. 8, AR 55-500). The chief type of claim in favor of the Government processed at the New York Port is that arising out of damage to Army cargo occasioned by the negligence of stevedores engaged in loading or unloading lighters.

When the investigation is completed, the Investigating Officer makes his report consisting of findings of fact, conclusions and recommendations together with all supporting documents, such as sworn statements from witnesses, diagrams, photographs, weather reports and other evidence upon which the report is based. Recommendations made are generally of a remedial nature designed to prevent recurrence of the incident investigated. The complete report is then forwarded to the Claims Judge Advocate for review, whether a formal claim has or has not been made. Should the reviewing officer require additional information, a request for the specific information required is made to the Investigating Officer who then submits the additional information and files it in the form of a supplement to his report. The Claims Judge Advocate, who generally has seen the file for the first time, reviews the accumulated evidence and makes an independent finding based on all the evidence, as well as the report of the Investigating Officer, and, if claim is filed, makes a recommendation with respect thereto. The Claims Judge Advocate also refers any remedial recommendations made to the Port Judge Advocate, who in turn invites the attention of the operating agency concerned to the report and recommendations made. If the case is within the scope of the War Shipping Administra­tion policy, the report is forwarded by the Claims Judge advocate with a copy of his legal review to the WSA Adjuster for final processing and payment. Simultaneously therewith a copy of the report is forwarded to the Chief of Transportation, pursuant to the provisions of Par. 12 b (4), AR 55-500. If the report does not come within the scope of WSA policy and is accompanied by a claim, the claim is administratively disposed of by the approving authority. However, if the latter type of report is not accompanied by a claim, the report is re­viewed and if legally sufficient, approved and then retained at the office of the approving authority for a period of 90 days after the occurrence to await filing of claim. Simultaneous with the approval of the report, a copy thereof is also forwarded to the Office of the Chief of Transportation, pursuant to the provisions of Par. 12 b (4), AR 55-500. If, however, no claim is filed within the period of 90 days from the date of the occur­rence, the report is then forwarded to the Commanding General, Second Service Command, pursuant to the provisions of Par. 12 b (4), AR 55-500. Usually, if no claim has been filed with the approving authority during the 90-day period, it may fairly be assumed that no claim will be filed.

Under the provisions of Par. 25, AR 55-500, the Chief of Transportation has been made responsible for coor­dinating the activities of the War Department agencies and the WSA in connection with liabilities of the War Department or of the Army insured against by the War Shipping Administration. The New York Port has, therefore, forwarded to the COT information with respect to the status of all claims processed at the Port or forwarded to the WSA for disposition by that agency.

The procedure here outlined has, we believe, been justified by the results that have been attained. The concentration of the Marine Investigatory function in a single unit comprised of trained investigators and techni­cians has resulted in speedy and impartial investigations.

The provisions for an independent review of the Report of Investigation and findings by the Claims Judge Advocate insures against error or too hasty or ill-advised conclusions. Between 22 November 1943 and 1 July 1944, a period of approximately 7 1/2 months, the section undertook 327 investigations of vessel incidents of which all but 25 were completed or brought to a point where they await action by third parties for final disposition. In practically every case, the Investigating Officer’s re­port was in the hands of the Claims Judge Advocate before claim was filed.

The close liaison between the Claims Judge Advocate and the Investigating Officer, who are members of the same division, permits the rapid exchange of all information and eliminates delay. The total effect is prompt, efficient and accurate adjustment of marine claims.
11 JULY will be long remembered as one of the gala days in the history of the Judge Advocate General's School, a ceremony attended by the University in training Army, Navy, and Marines for decisive conflicts in the world conflict, and expressed a desire to continue cooperation until the emergency period was crowned with a successful peace. The invoc- tion and benediction were given by Rev. Frank J. Mc- Phillips, pastor of St. Mary's Student Chapel and Catho- lic Chaplain on the campus.

Dr. Alexander G. Ruthven, President of the University of Michigan, reviewed the progress of the world wide conflict with special reference to the great and international situation at the time, mentioning among other things that the Allies had secured a four to one advantage in fire power in contrast to the advantage held by the Axis when the United States entered the struggle. He warned that unless unconditional surrender is exacted from the foe that the Nastis would be ready to return to the field of battle in another 10, 20 or 30 years. To prevent such a situation from occurring is what we are fighting for, he declared.

Specifically referring to the need for judge advocates in the modern Army, Mr. Patterson linked their proper performance of duty with high morale among the troops, saying that the morale of the soldier is affected for better or worse by his feeling about the fairness of treatment he receives. "There is nothing more important to morale than that the innocent shall be declared not guilty on court-martial and that the culprit shall be found guilty and treated according to his offense and to his chance of redemption." Secretary Patterson disagreed with the sometimes repeated characterization of G1 justice as unduly severe, stating that his experience was to the contrary, "when the cases have received thorough review and when the exigencies of military service are understood."

The Army's six Rehabilitation Centers have "gradu- ated" and returned to military service more than a third of the 19,000 general prisoners entrusted to them for re- habilitation, Mr. Patterson said, revealing that only 500 of the "graduates" have failed on their second chance and again been in trouble.

Allowing to contract termination, Mr. Patterson stated that "we have the same need for fairness in the Army program for munitions, planes, guns, tanks, and the thousands of other items that go to supply the Army. The success of that great activity rests on the principle that the contracts made with industry will be equitable to both sides, with the Government paying fair, but no more than fair, prices, and assuming the risks that fairly belong to the Government, but no more."

Gen. Cramer welcomed the graduates to membership in the largest law firm in the world, and revealed that counting their numbers, there were now almost 2000 judge advocates in the Army. "As you join the Judge Advocate General's department you must realize that although your work may not always have the glamour of battle, it is highly important and contributes its essential part to the sum total of success. The answers to your legal problems will not always be found in the law firm, their practical results will be found in established precedent. You may be called upon to give legal advice quickly in courts where there is no exact precedent. Your advice will govern the acts of others. You have the sound training of capable lawyers and officers. You must rely on that general background. You must have courage, exercise your judgment to the best of your ability, and act decisively. On the strength of your character and training I am confident that you
will respond to your duties with that high degree of initiative which has brought success and honor to those who have passed these portals before you and to our Department.

Gen. Aurand cited as an example of teamwork in the Army, the consent of Gen. Cramer for Col. Young to take over the duties of Commandant of the other Army Forces in Ann Arbor in addition to his duties as Commandant of the School, and praised Col. Young's work in his new position.

After the speeches were concluded each of the graduates had the unusual honor of receiving his diploma from the hands of the Acting Secretary of War.

Upon the conclusion of the ceremonies Mr. Patterson was escorted on a whirlwind tour of the University Campus and returned to the Lawyers Club for luncheon. Mr. Patterson and his party then visited classes briefly before winding up his activities in Ann Arbor with an informal press conference in which he condemned the spread of unjustified optimism which he called "the peace jitters." During the conference he willingly posed for photographers.

The Secretary and his party left by plane for Washington early in the afternoon. In his party were his special civilian assistants, Mr. Julius H. Amberg and Mr. Howard C. Petersen; his military aide, Maj. Munro Leal, and the following members of the Judge Advocate General's Department: Col. Philip J. McCook, Col. Hugh C. Smith, President of the War Department Board of Contract Appeals; Maj. Anthony Kane, Classification Officer; Maj. anthony Kane, Liaison Officer, and Maj. Clarence L. Yamnitz, Public Relations Officer, all of the Judge Advocate General's office.

All the ceremonies did not occur on the day of the Acting Secretary's visit. On the preceding day, 10 July, Gen. Cramer and Col. Young reviewed the graduation parade on Ferry Field, Ann Arbor. In addition to the graduating officers and cadets, the 7th OC Class also was in the parade together with about 750 ASTM students and the Navy band of 40 musicians. All told, about 1000 men took part in the retreat parade and review.

For the first time in the memory of those attending similar parades at the School, formal presentation of a Soldier's Medal was made by Gen. Cramer, and Cadet Buster Cole (now Lieutenant) of the 6th Officer Candidate Class was the recipient. The medal was awarded for the then Sergeant Cole's conduct while he was the lone American passenger on a foreign vessel attacked by a German bomber as it was travelling the high seas between two Icetidus ports in June 1915. The citation referred to Lt. Cole's "courage, presence of mind, and high degree of leadership which aided in saving the lives of the many civilians on board."

Most impressive was the taking of the oath by the 151 newly commissioned members of the 6th OC, survivors of the 17 week intensive training course out of an original group of 199. After the letter of appointment was read by Maj. Jeremiah J. O'Connor, Executive Officer, the new officers were sworn in by Col. Young as they repeated the oath solemnly and phrase by phrase. The class which had marched front and center for the oath-taking then returned to its place in line and the entire unit passed in review.

In the reviewing stand were Gen. Cramer, Col. Young, Dr. Alexander G. Ruthven, President of the University of Michigan; Capt. Richard E. Cassedy, USN, Commandant of the Naval units in Ann Arbor; Col. J. Alton Hosh; Chief of Contracts Division, JAGO; Dean Clarence N. Yorkum, Dean of the Graduate School, University of Michigan; and the following members of the Staff and Faculty: Lt. Col. Reginald G. Miller, Chief of the Military Affairs Department; Lt. Col. Michael L. Looney, Chief of the Contract Termination Department; Maj. Justin McElroy, Chief of the Military Science and Training Department, and Maj. O'Connor, Executive Officer.

Concluding the day's festivities was the usual farewell dinner of the graduating classes, the scene of which was transferred from its customary locale at the Alfenel Hotel to the mess hall in the Lawyers Club, because of the unprecedented number of graduates. A specially constructed dais for the guests of honor was erected in the west end of the hall and a platform for the actors in the skit was erected in the middle. The skit was under the supervision and direction of Lt. Adolph Reel, and was written by the following members of the 6th OC, all of whom depicted personalities on the Staff and Faculty: Lieutenants Anthony Appel, Harold Chace, Wright Conrad, Bernard Dick, Edward Doering, Hurtyman Dorse, Robert Dwyer, Gordon Fogg, Albert Gerstein, William Hart, Donald Hays, David Hoch, Lawrence Houston, Edward Malone, William Miller, John Morse, Robert Pendegrast, Norman Stoll, Mark Taliaferro, Stanley Waxberg, and John Whelan. Lieutenants William Alsup, Bernard Dick, and Stanley Waxberg were in charge of the banquet, refreshments and the program design respectively. Maj. Thomas Carney of the 17th Officer Class was the toastmaster.
**THE JUDGE ADVOCATE JOURNAL**

**Additional Duties for Col. Young**

Colonel Young, Commandant of the Judge Advocate General’s School, now has the rare distinction of being the only officer in the Department to exercise command functions over a military installation and over troops other than members of the Department. On 1 July 1944 he was named by Major General Henry S. Aurand, Commanding General, Sixth Service Command, with approval of Major General Myron C. Crandall, to command the Army units in Ann Arbor, succeeding Colonel Frederick C. Rogers, Inf., who retired.

On assuming his new duties, Colonel Young was appointed by the Board of Regents of the University of Michigan as Professor of Military Science and Tactics and Chairman of that Department. The unit over which he assumed command includes a Civil Affairs Training School for officers slated for Far Eastern duty, a Military Intelligence school of 50 officers and 250 enlisted men who will be commissioned on completion of course, together with about 1000 enlisted men and reservists assigned to engineering, medical, dental, and area and language studies in the AST and ASTR Programs. With station complement and JAG School personnel, the command totals over 1400 officers and men.

**Amberg Praises Army Officers**

The amount of fraud by Army officers is astonishingly small in war procurement, according to Julius H. Amberg, Special Assistant to the Secretary of War, speaking at the Judge Advocate General’s School, Ann Arbor, Michigan, on 31 July. “As there are bad actors in every profession it is natural to expect some to go wrong, especially in fields of rapid expansion such as the war procurement program, yet Army officers as a whole are more dependable for honesty and truthfulness than any other profession.” Therefore, Mr. Amberg concluded, a case of “war fraud” is a most exceptional case.

When investigations are called for, he stated, the Inspector General will make special probes on request. Undercover investigations may be carried on by the FBI, he said. Mr. Amberg also referred to Congressional investigations, in a two hour lecture to 275 students at the School, including officers and officer candidates.

Mr. Amberg, a native of Michigan, is a member of a prominent Grand Rapids Law firm and a former president of the Michigan State Bar Association.

---

**Recent Graduates FROM THE JAG SCHOOL**

**SEVENTEENTH OFFICER CLASS**
*Graded 11 July 1944*
- Barney, Wilfred J., 1st Lt., AC
- Boyle, Russell T., Maj., JAGD
- Brown, Grant A., Capt., JAGD
- Cravens, Theodore C., Maj., JAGD
- Craighill, James B., 1st Lt., JAGD
- Dillenbooth, George F., 1st Lt., AC
- Dwyer, Thomas F., 1st Lt., LL
- Edwards, Douglas L., 1st Lt., AC
- Ferris, Church B., 2d Lt., JAGD
- Gillespie, Campbell H., Capt., QMC
- Harris, Howard H., Maj., FA
- Hendrie, Lyndon L., Capt., AC
- Hodsdon, Kenneth J., Capt., JAGD
- Jaycox, Warren C., Maj., JAGD
- Jones, Elbert S., 1st Lt., AC
- Kline, George R., Maj., JAGD
- Klein, Harold F., 2d Lt., JAGD
- Keltner, John R., 1st Lt., AC
- Lessau, Russell E., 2d Lt., JAGD
- Loutet, George B., Maj., AC
- Nagle, George E., 1st Lt., AC
- Pepper, Harry L., 1st Lt., JAGD
- Presto, John M., 2d Lt., JAGD
- Rainold, Alexander E., Capt., JAGD
- Ritchie, Blaine B., Jr, Capt., AC
- Saunders, Angus C., 2d Lt., JAGD
- Schoomaker, John H., Capt., AC
- Skene, Edward L., 1st Lt., JAGD
- Smith, Marion H., Capt., CAC
- Stevens, Henry S., Maj., AC
- **Warnoff, Louis A., 1st Lt., AC**
- **Weaver, John H., 2d Lt., JAGD**
- **Wright, John A., 2d Lt., JAGD**

**EIGHTEENTH OFFICER CLASS**
*Graded 9 September 1944*
- Angland, Stephen J., Capt., JAGD
- Archer, Hugh B., Capt., JAGD
- Ash, Wm. W., Capt., JAGD
- Avery, John C., Maj., JAGD
- Black, Clarence J., Maj., JAGD
- Bowron, James F., Maj., JAGD
- Britton, J. D., 1st Lt., AC
- Brown, Edward H., Capt., AC
- Brown, James L., 1st Lt., JAGD
- Camman, R. H., Capt., JAGD
- Cowan, John J., Jr., 2nd Lt., JAGD
- Cowley, Cagle J., 2d Lt., JAGD
- Cotton, John S., 2d Lt., JAGD
- Down, Arthur F., 2d Lt., JAGD
- Eley, E. D., 2d Lt., AC
- Elliss, Lloyd E., Capt., JAGD
- Felshom, R. R., 2d Lt., JAGD
- Fisher, Frank, Jr., 1st Lt., AC
- Hay, L. L., Capt., AC
- Hickman, Donald D., Capt., JAGD
- Hood, John T., Jr., Capt., JAGD
- Jackson, Bryan H., 1st Lt., JAGD
- Johnston, David W., 1st Lt., JAGD
- Johnston, James L., Capt., JAGD
- Keller, Michael, Capt., JAGD
- Kemp, Wallace B., 2d Lt., JAGD
- Lampe, Stuart E., 1st Lt., JAGD
- **MacArthur, Kenneth R., Capt., JAGD**
- **MacCluer, Harper K., Maj., AC**
- **Manley, Frederick V., 1st Lt., JAGD**
- **Mathis, Charles C., Jr., Capt., JAGD**
- **McDonald, Richard, 1st Lt., JAGD**
- **McDonnell, Brian E., 2d Lt., JAGD**
- **McKown, M. J., Maj., AC**
- **Mehl, L. A., 1st Lt., AC**
- **Merrill, P. J., Capt., AC**
- **Moore, John F., Capt., JAGD**
- **Rinchart, Thomas, Maj., JAGD**
- **Romond, Hoyer E., 2nd Lt., JAGD**
- **Rose, Paul A., Maj., JAGD**
- **Schmidt, L. F., 1st Lt., JAGD**
- **Sessions, Glanzon C., Maj., JAGD**
- **Shepherd, Walton S., Maj., JAGD**
- **Sherin, David B., Jr., 1st Lt., JAGD**
- **Swanson, Carl A., 2d Lt., JAGD**
- **Walt, Lloyd A., Capt., JAGD**

**SIXTH OFFICER CANDIDATE CLASS**
*Graded 11 July 1944*
- Agnor, William H.
- Alois, William W.
- Anderson, David F.
- Appel, Anthony R.
- Archibald, John W.
- Bancroft, Harold W.
- Bassam, Robert W.
- Beckham, Louise E.
- Berry, John A.
- Blackwell, William M.
- Brodsky, Benjamin
THE JUDGE ADVOCATE JOURNAL

Browder, John B.
Brown, Herbert S.
Brown, Medford J.
Boungardier, Howard M.
Burford, Albert L.
Burkhalter, Fred O.
Burwell, Arthur J.
Clare, Charles E.
Clare, Nicholas G.
Clay, Harold H.
Cline, Charles T.
Coates, Bud
Conte, James C.
Conrad, Wright
Cook, Joel W.
Curran, Charles P.
Daniel, Marion P.
Delk, Bernard R.
Ditchie, George J.
Doeing, Edward A.
Dooey, Harryman
Dull, William B.
Dyer, Robert T.
Elliot, James F.
English, John E.
Finkbeiner, James V.
Fireson, Richard L.
Flanagan, John H.
Fogg, Gordon
Fossum, Fred G.
Frey, John H.
Gamble, William P.
Garrett, George W.
Grayson, Albert S.
Gilliam, Louis O.
Gregory, Cleburne
Griffith, Lyon B.
Hart, William L.
Hays, Donald C.
Hecht, David A.
Heinzerling, Carroll G.
Hooper, Walter E.
Houston, Lawrence R.
Huber, Edward F.
Hutchinson, Charles W.
Huston, Arthur T.
Johnson, Preston W.
Jones, Abott H.
Jones, Arthur D.
Jones, Preston W.
Jones, Robert R.
Kaylor, Hugh W.
Kieland, Robert L.
Kennedy, Aaa D.
Kennedy, Arthur W.
Knapmeyer, Lowell L.
Lanston, Harry A.
Leavy, Charles W.
Leet, Maurice J.
Levy, Leonard B.
Lyons, Harold S.
McDonald, Henry J.
McGinnis, George E.
McKee, Dunlap L.
McKinney, Charles W.
Marcellino, Frank
March, Carl J.
March, Matthew F.
Martin, Richard N.
Matthews, Thomas A.
Merrill, Herman S.
Miles, William H.
Miles, A. Chalmers
Moncrief, William A.
Moroney, Jean
Morse, John H.
Murphy, James D.
Murphy, Norman B.
Nolan, Robert J.
Nussick, Lester
Pangrazi, Andrew
Paller, Everett E.
Parkhurst, George V.
Patterson, T. Glover
Pennington, Robert J.
Phillips, Robert E.
Pinkowski, William J.
Reel, Adolph F.
Reese, Houston W.
Rice, Gordon W.
Romeo, Fred R.
Rosenthal, Milton F.
Rudley, John J.
Saad, Joseph W.
Schaber, John G.
Scheider, Albert W.
Schubel, Samuel D.
Sims, Walter H.
Snider, Maxwell L.
Sommer, Harry N.
Sprague, Harry S.
Steyer, Murray
Stoll, Nieman A.
Stoud, James S.
Talbion, Mark L.
Vegetti, Milton L.
Washington, Benjamin C.
Walder, Burnell
Whalen, Joseph A.
Ward, Thomas C.
Waxberg, Stanley D.
Weintraub, Joseph
Wehler, William L.
Wheeler, John M.
Whit, Lewis A.
Whitney, Lamon L.
Williams, Wayne D.
Winter, Charles J.
Wolf, Jesse D.
Worrall, Beverley R.
Wright, James O.
Wade, Taylor B.
Yost, William K.

SEVENTH OFFICER CANDIDATE CLASS
Graduated 9 September 1944

Ackerman, William J.
Arend, Ellis L.
Bailey, George E.
Barlow, John S., Jr.
Blakely, George K., Jr.
Bradley, William W.
Calabrese, Carroll B.
Carroll, Charles J., Jr.
Casler, Oliver
Casab, Alfred L., Jr.
Cederberg, Samuel L.
Chino, Charles E.
Cooper, Ber. T.
Drazenoff, James R.
Dreisbach, Richard H.
Dykh, Russell E.
Eisen, Amos H.
Fetterson, Paul W.
Field, Louis C.
Graf, Kenneth F.
Hart, Charles A., Jr.
Hilferty, Fred T.
Howland, John L.
Hudner, Richard N.
Kinder, Dwight B.
Kopperud, Alvin H.
Kriemel, Charles R.
Maggie, Edgar B.
Mayfield, Robert G.
McClain, William A.
McCormick, Donald G.
McPhee, William J.
McNally, Adeler J.
Ming, William R., Jr.
Miller, Arno J.
Murphy, Thomas J.
Nemeson, Louis
Parks, Lewis H.
Poul, Kris F.
Perry, Thomas E.
Pitcher, David E., Jr.
Pitry, John B.
Pulickoff, Harry
Ray, George K.
Red, George P.
Reed, Warren G.
Robb, Arno O.
Rothenberg, Frank F.
Rodman, Leroy E.
Sigler, Lewis A.
Siverling, Alan R.
Simms, Richard F.
Skocich, Everett F.
Smith, Robert T.
Spindell, Charles J.
Stabler, Keith B.
Steiner, Harold W.
Taylor, Charles H.
Toyes, Henry T.
Voller, Charles G.
Walsh, Jerome R.
Weis, Wm. C., Jr.
Wenz, Peter L.
THE JAG SCHOOL BANQUET SKIT

PROBABLY the best known of gatherings where hair is let down, and no holds barred, and all is strictly off the record, is the Washington correspondents' Gridiron Dinner. There the so-called fourth estate lets fly with a lampoon of the people who conduct the nation's business and a burlesque of how they do it. Occasional minor details indicate that now and again the harpoon is sunk in tender flesh, but its all in fun, or supposedly to be, and there is no pity for those who take it otherwise. The induction of prominent politicos and others into membership in the Circus Saints and Sinners is in the gridiron tradition on a personalized basis, and if the inductee can't smilingly tolerate an exaggerated display of his foibles and quirks, he becomes neither Saint nor Sinner, but just another Sad Sack. The annual Gambol of the Lambs Club of New York is another such event, and other examples might be cited, but to no particular purpose.

The general idea of all these things is to let off steam, to level the great and the lovely, but principally to have fun. Just how salutary such objects can be at the right time did not long escape those who had endured the rigors, terrors and subtle cruelties (whether actually real or merely apparent makes not the slightest difference at the time) of the JAG School. Thus the manifestation of the let-down that inevitably accompanies the end of the course grew from a sigh of relief, and regret too, into the Graduation Banquet, which carries on the tradition of conviviality, and along with it the tradition of “The Skit.”

The Skit is a product of Ann Arbor— at least it had its origin there with the 5th Officers Class. It is natural that it didn’t develop before, when JAG School was in cramped Washington quarters. The first two classes were really refreshers for Reserve officers. The 3rd Class, with about half AUS officers, had the germ of the idea, and marked the completion of their course with a luncheon at the Cosmos Club. The 4th Class was larger, and suffered from the growing pains that preceded the expansion of the School from small quarters, small faculty, and four electric fans, to the ideal accommodations of the Law Quad at Ann Arbor, and all that goes with it. The 4th Class did inaugurate the Graduation Banquet, held at the Army and Navy Club. But there was no skit. For this a combination of reasons is advanced—it was Washington in the summer, and the faculty was small. Finishing an intensive course in a hot Washington summer leaves most people glad to be alive, but with little energy to cheer about it; and a small faculty affords little to work on (and I do mean on)! And it is reported that the efforts of the class to disport themselves on a third floor fire-escape campus, which would hold barely half of the members, was a daily skit in itself.

The 5th Officer Class, the first to complete its course in Ann Arbor’s academic atmosphere, feasted at the end of the course, and “entertained” at the end of the feast. The entertainment marked the birth of the JAG School Graduation Banquet Skit, and succeeding classes have taken it up where the 5th Class left off. The opening of an Officer Candidate School enlarged the ranks still further, and naturally made for more, if not better, Skits. (Each class thinks its skit is the best.) The graduation of 11 July of the combined 16th Officer and 6th Officer Candidate classes, the largest group by far to receive JAG School Certificates of Completion, was preceded by the biggest Graduation Banquet yet, and the Skit was in keeping with the occasion.

What goes into a Skit? What makes it tick? Well, a lot of things. By special permission of the copyright owners, illustrative excerpts from the 6th OG Skit are quoted.

Letting Off Steam

Let’s see about this letting off steam. What were the main “beats” for the eight or seventeen weeks? What were the things that kept everyone a little edgy all the time? The Skit parades those things out in the open. Military Justice writs were violent offenders against peace of mind, full of people with funny names, in odd mixed-up circumstances (Major Farr must have been heartbroken when Army Nurses were embraced officially, if not literally, by the AUS). These people always did the most amazing things. In the 6th OG Skit, a bewildered Joe who had wandered into JAG School, is being given a personally conducted tour by a rough (if you don’t think so, look at the picture) impersonation of Captain Stephenson, and finds out about Military Justice thus:

Joe picks up a newspaper.

Capt. S: What are you reading?

Joe: The racing form.

Capt. S: Do you pick them pretty well?

Joe: Yeah.

Capt. S: You’re just the man for one of Major Farr’s justice writs.

Then enter Major Farr, who sings: (Tune—“Solomon Leit!”)

Photo by 5th Sergeant, Ann Arbor
Lts. Dexter (Prof. Polluck), Hickey (Capt. Stephen), and Warthin (Capt. Joe), in the improvisation lecture scene from the 6th OG’s Banquet Skit.
THE JUDGE ADVOCATE JOURNAL

I am Major Warren Farr
The father of Carsey Tapps
I give Military Justice. That's
A course on booby traps.
I distinguish any day
In weren't sharp and terse
Between a Warrant Officer
And the usual Army Nurse.

Chorus:
Military Justice—oh what a helluva course
Military Justice—the manual is our source
I live in a quite fantastic world
Of squared steps and books.
Where Sunday Major Generals
Ride furth on Army units
Where WAC's and nurses fight and bite
And handle Waver and Spar
Not in Colonel Miller's club
But in the Astor bar.

(Chorus)
Now Private Tittlemouse, one night
And Captain Helen Paul
Forgot a couple '55 slips
To get some study aids.
The drug clerk said: "We trust GIs"
Gave a cut of plug to each.
There's no awser to the thing
Its just the rot I teach.

(Chorus)
This song at last comes to an end,
To the end of this, of that.
But it's no worse, you must admit
Than what I teach in school.
Don't tell General Morrisette
About what I teach or sing
If you should, I simply would
Deny the whole damn thing.

The great difficulty with just reading something like that, and with Skit material in general, is that the humor and bite of the spoken word as colored by the exaggerated mimicry, are dulled by the printed page, and are liable to be lost on all but the cognoscenti—the victims who were subjected to the writs "all covered in the fine print and between the parentheses in the Manual," as it was explained to Joe. Joe fainted, but was revived in time to find out something about Military Affairs. The bibliography exercises, which uniformly produce terror and sweat to accompany the fast turning of pages of the assembled authorities, was explained in song by "Col. Miller" and "student" for Joe's edification:

(Enter Col. Miller and a student with his arms full of books, papers etc. They sing duet.)

M. Take your time, there's plenty of it,
This is simple; you will love it.
If you flunk it, we will shove it
In your box; a "U" above it
Its a sort of tumb-fruit,
Status, Pay and line duty.
I wrote it. Its a beauty.

S. Its a Rat Race.

M. Please call it an "exercise." That word it story tells.

S. O.K., but Shakespeare said—it not the rose's name that sniffs.
The bell will ring before you're half through
Close your books, you know you'll have to
You might as well break down and laugh, you
Flunked the course—the thing is snafu.

M. Now just calm yourself and keep cool
For we set upon a golden rule
We never flunk the entire school.

M.S. In a Rat Race.

"Col. Miller" also takes Joe through a Military Affairs Session; and the JAG School's system of demonstrating the snarls to be unraveled by the Affairs Department by the use of actual, but usually maddening, cases, was portrayed this way:

COL. M: I'll act as a proctor in the seminar today gentlemen, and I may say, in looking over the problems, and the approved solutions, that things are getting tougher in Washington judging by the number of commas left out of the problems these days. I suppose it's part of the conservation program but it should be called to the attention of the Procurement Division. Of course, cutting the streamliners down to five words was a good idea, but limiting the rest to "mentioneds" and three "pertinent parts" indicates a lack of Regular Army officers on duty. Pretty soon they'll be construing the statutes and regulations to mean what they say, and that happens, the whole department will be shot to...

But let's get on with the first problem... Candidate Joe?

JOE: (Vah paper in his hand) I can read it but it don't make no sense.

M. This IS your first seminar. You ain't seen nothin' yet, Bud.

JOE: (Reads) Private Bailor was constructively inducted with the aid of handcuffs and 6 MP's on Feb. 29, 1944. He was formerly on the inactive list of the National Naval Volunteers Reserve. He was taken to Fort Fluff and ordered to complete a course in the Halfmaster OCS. The school was on a skeleton basis, and he was detailed as a token student. After being recommended for a commission, Section VIII proceedings were started to discharge him for bed wetting. One day later, an old parrot kept by the commandant of the school addressed him as a shave tail, from which he inferred that his commission had been issued. Requirement: Your Opinion: Is Bailor entitled to use the officer's latrine?

JOE: Youse got me wrong. I ain't a quiz kid, I'm a soldier.

The inevitable Saturday inspections, with trousers creased knife-sharp, "skims," and the suggestion that wives and the demands of the school are best satisfied by leaving the wives at home, are all duly noted in this bit.

Page 41
THE JUDGE ADVOCATE JOURNAL

JOE: I don't wanna be a candidate. Look what happened to Willkie.

CAPT. S: And we'll go over a few of the high spots. First you get oriented.

(Enter Col. Young, Lt. Col. Looney, Capt Richling)

CAPT. S: (In chorus) We'll take care of that.

CAPT. RICHLING: We'll take care of that.

CAPT. R: (High voice) Ding. (Low voice) Ding.

CAPT. L: (appraisingly) Better than average looking class.

JOE: (aside) What's he grinning at?

CAPT. S: (aside) He's thinking about skinning you.

JOE: (aside) That ain't legal.

CAPT. S: (aside) Shh! ... We come to that in Rules of Land Warfare.

JOE: What's he reading? (pointing to Col. Y.)

CAPT. S: Oh he's studying Japanese. He's been put in charge of the ASTP and he's got to inspect the Japanese students. He's studying how to say, "Are these your best pants?" in Japanese.

COL. Y: Much prettier than the 6th OC. In conclusion, Joe, by mid-terms you'll be the worst class I have ever seen. But remember, don't worry, just study in the time allotted and all other times. And don't worry ...

JOE: By the way, who was that lady I seen you with last night? Your wife? You know, we don't like your having your wife here.

JOE: That was no lady. That was just a babe I picked up in town. I'm living with her.

COL. Y: Oh, that's all right, then. There's no rule about that.

COL. YOUNG: (In chorus) "We'll take care of him, Joe."

JOE: (hopefully) I used to shoot a machine gun.

MAJ. MC: Oh! Transportation section from the transportation platoon of the service company of the infantry regiment of the infantry division, Armed with 15 bazookas, 2 60mm mortars, 5 water pistols, a slingshot and two booby-traps ...

JOE: Once in the barracks we had booby-traps. Put him on the bugle detail.

MAJ. MC: Headquarters consisting of two grease monkeys and left-handed T-5. Of course under the latest revised T/O from Leavenworth red hair is indi­cated. But under field conditions ...

The "Military Science and Tactics Department" decided Joe wasn't ready for field conditions without the benefit of its fine courses, including, naturally, Military Sanitation and First Aid, to keep him in fighting trim under all conditions. That serious deficiency was at once remedied:

(At this point, the Mil. Science and Tactics Depart­ment range themselves in line and sing in unison—to the tune of The Surry with the Fringe on Top.)

M S & T Dept: (sing)

Give us health, first aid and sanitation
Check bath towels and water chlorination
Don't include WACs with coeducation
And avoid all lice

Native huts have poor refrigeration
Germ supplies from the native population

A kick in the snoot will cause sharks consternation
But don't try it twice.

Don't eat doughnuts on the march;
Avoid the bug and beetle.

Leggins nets and stinky stuff
Will foil the Anopheles Mosquito!

Tricks and smokes are waiting to get you
Don't let chills and fever upset you
Even the lowly snail won't let you

Off the straight and narrow
So let's roll out the bulls and the Serbian Barrel.

A Skin can point its finger at other than local matters.

Take this business of Claims:

A man comes on stage tossing dollar bills out of a bushel basket. He's followed by another man who pa­tiently picks up the money. A third plays with a pile of pennies.

Ed. Note: Honest, the Italian snails are very treacherous.

Parasites. And you can imagine'llOw Iowa snail parasite would be!!

... and don't worry.

The "Military Science and Tactics Department" de­cided Joe wasn't ready for field conditions without the benefit of its fine courses, including, naturally, Military Sanitation and First Aid, to keep him in fighting trim under all conditions. That serious deficiency was at once remedied:

(At this point, the Mil. Science and Tactics Depart­ment range themselves in line and sing in unison—to the tune of The Surry with the Fringe on Top.)

M S & T Dept: (sing)

Give us health, first aid and sanitation
Check bath towels and water chlorination
Don't include WACs with coeducation
And avoid all lice

Native huts have poor refrigeration
Germ supplies from the native population

A kick in the snoot will cause sharks consternation
But don't try it twice.

Don't eat doughnuts on the march;
Avoid the bug and beetle.

Leggins nets and stinky stuff
Will foil the Anopheles Mosquito!

Tricks and smokes are waiting to get you
Don't let chills and fever upset you
Even the lowly snail won't let you

Off the straight and narrow
So let's roll out the bulls and the Serbian Barrel.

A Skin can point its finger at other than local matters.

Take this business of Claims:

A man comes on stage tossing dollar bills out of a bushel basket. He's followed by another man who pa­tiently picks up the money. A third plays with a pile of pennies.

Ed. Note: Honest, the Italian snails are very treacherous.

Parasites. And you can imagine'llOw Iowa snail parasite would be!!
JOE: What's that guy doin' throwin' all the dough around? Is he nuts?
CAPT. S: Shhh. That's the Foreign Claims Department, spreading good will.
JOE: Geez. Why, in my last pay—
CAPT. S: Shhh.
JOE: That little beaver with the basket—he don't seem so happy.
CAPT. S: That's the Comptroller General.
JOE: Who's the guy nursing them nickels?
CAPT. S: Oh, he takes care of the claims of the military personnel. You see, this is the Washington Office. Its broken up into divisions.
JOE: (Leaping up.) What was that?
CAPT. S: Don't be alarmed. Guess Capt. Richling dropped in the Justice Division and busted another case.

Leveling the Great and the Lowly
You can see from all this how the letting-off-steam angle of the Skit works out. As a leveler of the great and the lowly—the harassed students, particularly the Candidates—the Skit becomes personal. The great? Why not start at the top, with The Judge Advocate General, and cover the whole JAG Department? A prancing "General Cramer" and pony-ballet chorus gave out with gusto, vocal and otherwise, on this:

Give Me a JAG Who Can Cite and Salute.
From my CP in Washington, quiet and cool,
I've come to Ann Arbor to look at your school.
Don't stand on formality, you all know me
I'm known to the Army as T.JAG.  

Chorus:
TJAG, TJAG, he's known
To the Army as TJAG.
My troops are not many; they're really quite bright,
But, frankly, as soldiers, a helluva sight.
They have to do daily haircuts and wear your best suit
And spend all your time learning how to salute.
Chorus:
How to salute, etc.
If advice is requested by TAGO
The answer won't matter; here's all you must know.
Tho I'm not presumptuous and don't like to brag
You can say anything if you just cite Bull Jag.
Chorus:
Just cite Bull Jag, etc.
So dismiss from your minds any thoughts about books,
Just practice saluting and think of your looks.
Just learn to keep step and at all times look neat.
What I want is JAGs to parade at retreat.
Chorus:
Parade at retreat, etc.
Remember to keep your appearance smart
And learn the short forms of citations by heart.
For learned opinions I don't give a hoot
I just want some JAGs who can cite and salute.
Chorus:
Cite and salute, etc.

Civilian instructors as well as military were included in the ribbing. For example, the Saturday morning lecture on the week's doings throughout the world, ably delivered by Professor Pollock of the University of Michigan faculty, was not quite the same article as that produced by "Prof Pollock" in the Skit; but as usual, it had lots of maps, and as usual also, it was drowned out at the end by the same otherwise stirring march that was played each Saturday by a very loud band outside the lecture hall. The picture indicates some of the variances from the customary lecture hall presentation.

The ever-meticulous grooming of Major O'Connor, the School's Executive Officer, was a highly personal matter, but more than the Skit could overlook; and the following is part of the commentary:

Enter Major O'Connor
MAJ. O'C: I'm the much beleaguered Exec.
When needed I'm always on deck
To lend an ear sympathetic,
Sound a .....

Chorus:
Major O'Connor, etc.
We've got soldiers suits on civilians galore
And tried to tell them they ain't lawyers no more.
But they shook around like a salt bunch of sacks.
They look like a lot of old ladies in slacks.
Chorus:
Ladies in Slacks, etc.
So here at Ann Arbor we'll try a new plan
You will pay more attention to the outer man
I don't give a damn for an Ehlu Root
Just give me some JAGs who can cite and salute.
Chorus:
Cite and salute, etc.

For knowledge of law you will not have much need
FM 25 dash 5 is all you will read
Just get daily barbers and wear your best suit
And spend all your time learning how to salute.
Chorus:
How to salute, etc.

JAG's who are restive, and long for the smell of powder other than that to be found in milady's boudoir, may find themselves in sympathy with the notice taken by the Skit of the transfer of Col. Looney from Chief of the Military Science and Tactics Department to head the new Contract Termination course. It was this way:

JOE: Who's that guy with the axe?
CAPT. S: Oh, that's Col. Looney.
JOE: What's Col. Looney got that axe for?
CAPT. S: He's found a new way to terminate contracts.
Lt. Col. Looney then speaks the following:

With corners square
And a jaunty air
The Law Quad I parade.

Since Boston town
I've got around
The circuit I have made.

I did all right
As a legal light
On the Justice staff, with taxes.

But when war broke out
I did avow
That sort of life, too lax is.

Like the minstrel bard
I girt my sward
And off I went to fight.

But I hit a snag
I was made a JAG
And again a legal light.

Yet now and then
I could march my men
Shouting orders military.

And with a winning grin
I learned to skin
Recalcitrants contrary.

Of sad cruel fate
I got the gate
As a military tactician.

And now I'm stuck
With a Contracts book
What a horrible condition.

For I'm a soldier man
I wear the tan
And on my chest is hair.

So with corners square
Again I'll march my men.

For a JAG's reward
It is the pen and sword
And not alone the pen.

The point of view of Regular Army, and temporary officers, for the present and the future was contrasted—but it might be well to keep in mind that the Skit was written, produced and played by temporary officers whose date of rank and the date of the production were the same:

Tune: "San Fernando Valley"

COL. MILLER:

I'm through with courts and books and briefs,
Boards of all sorts—what a relief!
I've got a permanent rank in JAGD
It's gonna be the life of Riley for me.

Won't practice law. In Washington
I'll live at ease—when the war is done.
I'll spend my life in view of Capitol Dome
And make the JAG Department my home.

The others: (Broken lines—as indicated by numbers)
1. Gonna Pack my bag
2. Fill it with ARs
3. And My Dig Op JAG
4. And my new gold bars
5. I'm off to Timbuctoo or far away Nome

Wherever Colonel Springer says is my home.

1. When war is done
2. And I'm free to go
3. In Washington
4. I will not show

I'm going to practice law and nevermore roam
And make

1. Dallas
2. New York
3. Memphis
4. Pittsburgh
5. Boston
6. Oshkosh
7. Detroit
8. Podunk
ALL: my home.

It's All in Fun

But for all of its irreverence, cracks, pointed comment, etc., the Skit of the 6th OC, like those that preceded it, was the outpouring of high spirits, another example of the irrepressible American custom of good-natured joshing. With the JAG School skit it's hard to tell whether it is more blessed to give than receive—or more fun. That is why the Graduation Banquet Skit becomes a more deeply-rooted tradition with each succeeding class. May it continue—till the war is won, and the need for more JAGs and for the JAG School has ended with it.
“Firsts” IN THE DEPARTMENT

FIRST JAGD officer to be commissioned direct from civilian life during the present war was Lieutenant Colonel Berrymann Green, Chief of the Tax Division, Office of The Judge Advocate General. A native Virginian, Colonel Green attended the University of Virginia and began the practice of law in 1921. He was Commonwealth Attorney at Norfolk from 1929 to 1933 and the following year he became Special Assistant to the Attorney General of the United States.

When he was commissioned a major on 27 February 1942 he was assigned to the Office of The Judge Advocate General where he has been engaged in the handling of taxation problems since that time. He was promoted to lieutenant colonel on 26 April 1943 and became Chief of the Tax Division on 16 September 1943.

Colonel Green saw service in World War I in the Coast Artillery Corps.

FIRST officer commissioned from the enlisted ranks was Major Theodore F. Cangelosi, who was appointed First Lieutenant on 27 July 1942 while serving at Camp Beauregard, Louisiana. A native of Baton Rouge, Louisiana, Major Cangelosi received the degree of Bachelor of Arts from Louisiana State University in 1932 and the degree of Bachelor of Laws from the same University in 1934. A member of the Louisiana Bar since 1934, Major Cangelosi served as a member of the State Legislature from 1940 to 1941.

He is a graduate of The Judge Advocate General’s School and from 23 November 1942 to 2 September 1943 he was on duty in the Personnel Division, Office of The Judge Advocate General. He is now Executive of the Branch Office of The Judge Advocate General in the European Theater of Operations and was promoted to his present grade on 30 June 1944.

FIRST enlisted man selected for The Judge Advocate General Officer Candidate School was Captain John E. Park, now a member of the Staff and Faculty of the school. He was also the first applicant for the OCS. Captain Park was born in Salina, Kansas, received his law degree from Georgetown University, Washington, D. C., in 1938, and was admitted to the District of Columbia Bar the same year. In 1939 he was admitted to practice in Missouri. He served in the army as an enlisted man from 21 July 1942 until graduation from OCS with the First Class on 28 August 1943. He was promoted to Captain on 22 May 1944 and has been a member of the Staff and Faculty of the School since 51 May 1944.

FIRST member of the Women’s Army Corps to become a Judge Advocate was Captain Phyllis L. Propp of Waterloo, Iowa. Captain Propp received the degree of Bachelor of Arts from the University of Iowa in 1930 and on receiving her law degree from the same university, became a member of the bar of that state, where she practiced law until appointed a Second Lieutenant on 3 October 1942.

She was promoted to First Lieutenant on 13 April 1943 and received her captaincy on 30 October 1943. As the first female J.A. she was detailed in the Department on 5 May 1944 at Fort Des Moines, Iowa, where she is assigned as Staff Judge Advocate.
SOUTHWEST PACIFIC—Mention the Air Force and you think inevitably of thousands of pilots and gunners and bombardiers throwing tons of lead and TNT on the enemy from the skies. But it takes a lot of other specialists to run an Air Force, too—a lot that have nothing to do with airplanes except, perhaps, to use them as a means of travel.

Such a specialist, for instance, is WOJG Arthur S. Conner, former Oklahoma A. & M. student, who is the fastest shorthand reporter among Air Force personnel in the southwest Pacific and an expert in the reporting of general court-martial proceedings throughout the theater.

Until a short time ago he was the only official court-martial reporter in the entire Fifth Air Force—a tribute both to Conner’s skill and to the behavior of the Fifth’s personnel, only a small fraction of which becomes involved in serious breaches of Army Law.

He is now doing similar work as a member of the staff judge advocate’s department in the Far East Air Service Command. The Far East Air Forces were formed recently by a combination of the Fifth and Thirteenth Air Forces.

Operating from a rear base headquarters, WO Conner flies to various parts of Australia and New Guinea as his services are needed. He has flown an estimated 30,000 miles on and off the scenes of different courts-martial. The number of words of testimony he has recorded and transcribed is almost beyond calculation.

He has taken notes in rain-drenched grass huts in New Guinea and in wind-threatened tents in Australian bush country. He has transcribed those notes by candle light in the jungle and in crowded transport planes 10,000 feet above the Coral Sea and the Australian desert.

Bombs from Jap raiders have threatened his equipment and sent him scurrying to slit trenches, but he has never lost a note. Only once in all his travels has he had real cause for alarm. That was when a storm forced the transport in which he was a passenger to turn back to Port Moresby to await better flying weather for crossing the Owen Stanley Mountains. The wheels locked on landing and the plane skidded off the runway, but no one was injured.

A native Oklahoman, Conner attended Oklahoma A. & M. at Stillwater from 1936 to 1940, majoring in secretarial administration. On leaving college he served as secretary to an oil company executive in southern Illinois before entering Army service in April, 1942. He has been in the Southwest Pacific since July of that year.

Conner was a private first class in Australia when he won first place among 20,000 entrants in the 1943 contest of the Order of Gregg Shorthand Artists for the “most beautiful specimen of shorthand” submitted. He had placed fifth in the 1942 contest, and had won the Gold Seal Certificate of Superior Merit for Gregg writers in 1939.

Notes

The Executive Secretary of the Association requests that all members inform him of any change of home address and/or mailing address.

Any member of The Judge Advocate General’s Department who has not yet joined the Judge Advocates Association is invited to join. A letter of application addressed to the Executive Secretary, Judge Advocates Association, 1225 New York Avenue, N. W., Washington 5, D. C., will bring immediate attention.

The following is a collection of notes culled from the columns of THE ADVOCATE, bulletin of The Judge Advocate General’s School, concerning the activities of members of the Department who are alumni of the school.
Calif. Western Defense Command, PreSIdIO of San FranCISCO, Sector Judge Advocate, is now in England.

Capt. Robert L. Clare, Jr., member of the Staff and faculty since December 1942, when he completed the school course as a member of the 6th Officer Class, has been transferred to an undisclosed assignment.

Inducted in February 1941, Capt. Clare served with the 4th Motorized Division, was appointed warrant officer in May 1942, and commissioned second lieutenant three months later. At the time of his departure from the school he was an instructor in the Military Justice Department.

Capt. Clare is a graduate of Holy Cross College and Harvard Law School, and in civilian life practiced law in New York, N. Y., with the firm of Shearman and Sterling.

Maj. G. E. Georgeta, who was forced to return to the United States from his Alaskan tour of duty some time ago on account of illness, is head of the Military Personnel Claims Branch, Claims Division, JAGO.

Ben M. Ayars is now a major and Staff JA of a mobile port somewhere overseas. He writes that he expects to be on the move again soon.

Maj. Everett A. Bogue has been transferred to JAGR, Baltimore, Md.

Col. Miller also reports that a classmate, Arthur Green, has been promoted to lieutenant colonel and is Staff JA of the Southern Base Section.

5th OFFICER CLASS
Lt. Col. Edgar H. Wilson is in the Post JA at Fort Sill, Okla.
Maj. Ervin Schlesinger has been transferred from the Ninth Service Command to HQ, Seventh Service Command.

5th OFFICER CLASS
Lt. Col. John H. Awtry is assigned to the G-5 section with an Army Group "somewhere in France." He finds pleasure in reading about activities of alumni as well as of the school generally.

John Ritchie III, now a major, is Staff JA of the 65th Inf. Div., which post he has held since June 1943. Upon graduation here in November 1942, he attended Command and General Staff School staff course and later the new divisions course there prior to the activation of his division.

Lt. Colonel Mariano A. Frana, lately of the Military Justice Division, JAGO, is among the graduates who receive their diplomas from the School of Military Government, University of Virginia, Charlottesville, Va., 22 July 1944.

Maj. Marvin W. Ludington served as Brigade JA of an Antiaircraft Artillery Brigade, San Francisco, Calif., from the time of his graduation here in December 1942 until February 1944. His present assignment is with Headquarters, Fourth Army.

Maj. Willard B. Cowles is the author of an article in the June issue of the American Bar Association Journal, "Trial of War Criminals by Military Tribunals." The article is a summary of an address delivered by him before the Section of International and Comparative Law of the American Bar Association, meeting at the Pan American Union 28 January 1944.

Capt. Theodore F. Cangelosi, Executive Officer of the Office of the Judge Advocate of the European Theatre, writes from England that "instead of tapering off, it appears that the activities are larger than ever and that you have more to contend with than ever before. THE ADVOCATE is being received regularly here and is read with real interest by the entire staff and certainly by me. I think it is a fine publication and it is especially interesting to those of us who are away from the school and on foreign duty."

Capt. Cangelosi hopes that he and his wife are able to visit a short time in Ann Arbor upon his return from foreign duty "because it has for us memories that will always be pleasant and of a kind one does not easily forget."

Maj. Willard B. Cowles, War Plans Division, JAGO, is the father of an eight pound baby girl, Nancy, who arrived upon this worldly scene on 1 June. Major Cowles is now in England.

6th OFFICER CLASS
Since last December Major David Lynn has been Sector Judge Advocate, Northern California Sector, Western Defense Command, Presidio of San Francisco, Calif.

13TH OFFICER CLASS
Capt. Clare is a graduate of Holy Cross College and Harvard Law School, and in civilian life practiced law in New York, N. Y., with the firm of Shearman and Sterling.

Maj. G. E. Georgeta, who was forced to return to the United States from his Alaskan tour of duty some time ago on account of illness, is head of the Military Personnel Claims Branch, Claims Division, JAGO.

Ben M. Ayars is now a major and Staff JA of a mobile port somewhere overseas. He writes that he expects to be on the move again soon.

Maj. Everett A. Bogue has been transferred to JAGR, Baltimore, Md.

7th OFFICER CLASS
Capt. Lorenza H. Calhoun, formerly litigation officer of the staff JA's office, Eight Service Command, and the "Mr. Alexander" on the legal assistance radio program there, is now said to be in the Southwest Pacific. What does? Why betting on "hoss races" of course!

Maj. Smith Troy, former attorney general of the state of Washington, is Staff JA with an infantry division in England.

Speaking of military justice, Maj. King says, "I was bombed from the air, sniped at from trees, and to add insult to injury had a hand grenade explode a few feet away from me. With it all, I sleep well even though it be a slit trench, enjoy C rations, and boy's won a one round battle in a machete to coil fight against a 19 foot python."
care operations in portable hospitals while under fire." Maj. King declares that his division is the 'best-disciplined in the entire United States Army,' attributing this to two factors: Regular Army personnel and its Commanding Officer, whose name is not published for reasons of security.

A few days later word also came from Capt. Millard. He, too, finds that JA duties while his division is in combat are practically nil. "We have had only one GCM this year and I'll give ten to one we have no more."

8TH OFFICER CLASS

First Lieutenant Carl D. Levy, Hq., Air Force Service Command writes that he is very comfortably situated in Italy with modern conveniences. "Many of us in these 'comfortable' spots aren't too many miles behind the front lines either... There are quite a few of the 8th Officer Class serving in the vicinity. The Staff JA of my headquarters is Maj. Barnett Novak (7th Officer CL), I am one of his assistants. Col. Clarence W. Miles is head of the Claims Commission for Italy and nearby. Capt. John J. Rigney and Capt. Stanley Timmins of our class are close by and we get to see each other quite often. Lt. Morris L. Bradford and Lt. John K. Goff (7th Officer CL) are also not too far away and are still classed as 'friendly troops.' It isn't hard to see, knowing a few of the propensities of this group, that we are fighting a strictly legal war over here in Italy."

"Our court rooms are a thing of beauty, located in former princes' palaces in some cases, or where II Duce handed out his particular brand of justice. Our quarters are in the form of private apartments graciously furnished by our Uncle. They compare favorably with Section J of the Quad. Our mess... well, comparisons are odious." Lt. Levy suggests that AW 75 is worth studying as it has been the subject of several cases. He states that the material from the school has been most helpful, and "in many cases we couldn't have made the apparently rapid-fire legal decisions that have been necessary without the aid of our binders."

Capt. David S. Meredith, Jr. writes from Headquarters, Central Pacific Area that there are now 10 graduates in the office of the Staff JA there. Capt. Meredith says that the alumni recall their days at the school with pleasure.

Maj. Frank McNamara received a bullet wound in the hand in France last month. Maj. Roger D. Branigin is the chief legal officer of the Ferrying Command, ATC. Maj. Itimous T. Valentine is somewhere in China Burma India. Capt. William J. Peyer, former member of the Staff and Faculty here, is assigned now to Industrial Personnel Division, ASF. Capt. Peyer writes that he has been riding the rails almost continuously the past month back and forth from Washington, to Chicago, Cleveland, Philadelphia, and New York.

Capt. James A. Lee is on duty at Cincinnati, O., with the Ferrying Command, ATC. Capt. William J. Millard, Jr. is Assistant JA of an infantry division in New Guinea. He finds the country "a bit of a bore... either hotter than hell or raining harder than a shower bath." He reports going on a reconnaissance trip for a week through more or less untouched places, covering eight miles a day and rendezvousing at night with a boat carrying rations. "We saw the natives in a primitive state where they will do any work or provide oranges, bananas or pineapples for a cigarette (to them the greatest delicacy), and then we encounter others that have already been spoiled by troops and want at least two bob or a pack of cigarettes for anything." Capt. Millard swears by the tropical hammock the Army has invented that "keeps you off the ground and has a built-in mosquito bar and rubber roof. All you do is sip it up at night."

Capt. Scott Jordan may be leaving the Military District of Washington for foreign shores soon. Maj. George McLean reports his safe return in the European Theatre where he is assigned to foreign claims duty.

10th OFFICER CLASS

First Lieutenant Carl D. Levy, Hq., Air Force Service Command writes that he is very comfortably situated in it...
Capt. George S. Bradley, AAF Base Unit, Hq., ATC, Winter, D. C., he says: “I may shortly be pulling up the tap roots of 13 months and turning to a more exciting assignment. In this event it is possible for me to continue to receive copies of “The Advocate” which is as refreshing as a piping hot cup of coffee on a cold morning.”

Capt. Martin K. Elliott is another of the alumni to report from a French address, and he wonders if he were in the same country (England) in pre-invasion days as were those JAs stationed in London and with the Air Force. Apparently his reaction to the British Isles was not as warm as that of the boys in the British capital. He reports that he has acquired a few extra jobs, TJA for GCM as well as all division special courts and a few others. Tried five GCMs last week and have several more pending.

He adds, “I took a little trip last week and got lost—but brother I hurried back when I found out where I was. It was no place for me and my little car. This business of ferreting out civilian witnesses is not all that it is cracked up to be, even if you do have as good an interpreter as I have had.”

Rumor says that Maj. Julian Weider, that big man from Texas, is now in England. After completing the course here, Maj. Weider was assigned to study in military government.

James DeMartini, who moved to Alaska not so long ago, has been promoted to the rank of captain. Maj. Clarence L. Yancey is Assistant Executive Officer, JAGO, as well as Public Relations Officer. Since graduation Capt. Francis J. Gafford, has been assigned to Headquarters, Sixth Service Command, as assistant staff JA engaged in Military Justice matters.

At the time of writing he expected a transfer to Fort Sheridan, Ill. as assistant Post JA.

1st Lt. Morris Weller has been assistant JA, Headquarter, 2nd Army Headquarters, and his present station at 4th Army Headquarters.

Maj. Francis J. Gafford, has been assigned to Headquarters, Sixth Service Command, as assistant staff JA engaged in Military Justice matters. At the time of writing he expected a transfer to Fort Sheridan, Ill. as assistant Post JA.

Maj. Andrew G. C. Bierer is to attend the Conference section on Legal Education and Admissions to the Bar and National Conference of Bar Examiners at the Annual Meeting of American Bar Association in Chicago, Ill. next month.

Capt. Raymond H. Wright is Camp JA at Camp Bowie, Texas.

Capt. Axel R. Ernberg has been transferred from Fort Hayes, O. to Fort Benjamin Harrison, Ind. where he is now the Post JA. He replaces Lt. Col. John B. Hill, is now Staff JA, Kelly Field Air Service Command, San Antonio, Texas.

Capt. Edward E. Brusky, Jr. is now a major, assigned to a JA section in the European Theater of Operations.

Maj. Henry C. Todd, Assistant Staff JA of an infantry division at Fort Dix praises the layout for courts-martial there. “It was a joy to hit this place. They have one room which is assigned for CMs and they have tables and chairs and everything else you can imagine (papers, ballots, etc.) for the court.”

“A nuisance has been the administrative inspection. I think it might be well for the boys to be advised to check the company punishment books very regularly, every three or four months or so (until) they are sure that the company commanders are on the ball. Also check page 8 of the service record to make sure that they are on the ball for entering the CM convictions. That page can get to be a nuisance if you wait too long.”

Capt. Henry C. Todd writes again, this time from England. He speaks highly of two of the school texts: “Our JAGS texts No. 4 and No. 7 are looked upon with great jealousy by our Civil Affairs Section. They would give their eye teeth for them . . . the more you read of these two the more aid they are in problems that concern military justice in SCM and Summary CM matters keeps up but no GCMs yet. The BOJAG has revised a number of them and has a great string of policies and SOP on a number of things which is very good.

Warn the boys always to check security on their CM orders.

“More and more I can see why the SJA has an assistant and it is more important than ever in overseas operation to have enough qualified personnel to run your GCM actually within the section. Most important of all is an enlisted reporter.”

Maj. Edwin E. Rives writes from England that he is now a Foreign Claims Commissioner on a Claims Commission with two other officers with jurisdiction in the United Kingdom. Prior to that he had a very interesting assignment for Gen. Eisenhower, “working directly under Gen. John C. H. Lee which led to conferences with our Ambassador, Mr. Winant, Sir John Anderson and many other distinguished person. During this period of this assignment, I worked with some fine British people in the marshalling area, and had a grand stand in watching final preparations for the big invasion.”

Maj. Rives reports seeing Capt. Ford Sargent, Capt. Robert McKeever and Maj. Frank Mizell of his class in his immediate vicinity. He finds good use for subjects studied and training received here. “You can well imagine that strenuous problem of the school was pretty hard on an old slow Southern judge but the fine instruction, and the friendships made there have meant a lot to me.”

Maj. Andrew G. C. Bierer is to attend the Conference section on Legal Education and Admissions to the Bar and National Conference of Bar Examiners at the Annual Meeting of American Bar Association in Chicago, Ill. next month.

12th OFFICER CLASS

Capt. Cedric W. Clark is Staff JA at Hq. FARTC, Camp Roberts, Calif.

Maj. Cedric W. Clark is Staff JA at Hq. FARTC, Camp Roberts, Calif.

Capt. Raymond H. Wright is Camp JA at Camp Bowie, Texas.

Capt. Edward E. Broady, Jr. is now a major, assigned to a JA section in the European Theater of Operations.

Maj. Henry V. Brosdy, now has an APO number, and is somewhere in North Africa, where “the scenic beauty would be difficult to improve upon.” He finds school texts very useful, and that “they help to make up for the deficiencies of a limited library.” He has been detailed into the Judge Advocate General’s Department from the Air Corps. He also reports that his former roommate at school, Lt. Col. John B. Hill, is now Staff JA, Kelly Field Service Command, San Antonio, Texas.


13th OFFICER CLASS

Lt. C. A. Holmes in located at the Office of the Judge Advocate, Hq., AAF, Materiel Command, Wright Field, O.

14th OFFICER CLASS

Capt. Axel R. Ernberg has been transferred from Fort Hayes, O. to Fort Benjamin Harrison, Ind. where he is now the Post JA. He replaces Lt. Col. Winfield S. Slocum.

15th OFFICER CLASS

Lt. C. A. Holmes is located at the Office of the Judge Advocate, Hq., AAF, Materiel Command, Wright Field, O.
SAN BERNARDINO AIR SERVICE COMMAND, Calif. finds that out of San Francisco, Calif. the school's basis of his experience since graduation. All of the manpower Service Command, Fort Douglas, Utah, are at work in the JAGO assigned to the Patents and Claims Office. It is also assigned to the same office.

17TH OFFICER CLASS

1ST OFFICER CANDIDATE CLASS
Capt. Paul Boucher, assigned to a Troop Carrier Wing, "somewhere in New Guinea midst coconut groves and palm trees" finds the scenery beautiful, the weather hot and the mosquitoes just as big as the B-29s. Nevertheless, he adds, "I like my work and I like it here."

1st Lt. Ralph E. Becker, Assistant Staff JA of an infantry division is fast becoming our European correspondent. He writes that he has met Capt. Charles F. Brocken, Capt. Thomas L. Archibald, and Capt. John P. Nash and that Abraham Pinsky is now a captain. All are "somewhere in England." He also says that he talked with 1st Lt. Charlie Allen on the phone.

Lt. Becker waxes enthusiastic about the beauties of the English countryside, finding it "the most attractive in the world" and he notes that I came from Westchester, "the Garden Spot of Creation."

Lt. Edmund Revereenth is with a JA section in England also.

Lt. Ernest Rahm who was Camp JA at Camp Claiborne, La. from November 1943 to March 1944 is now acting in the same capacity at Camp Polk, La.

Lt. Baker Adams who was reported sick as a "P.O.E." is now apparently on route.

It is reported by his proud father, Capt. John H. Haley, Jr., that Philip H. (the little Irishman) Haley was born in December 1915. Lt. Haley is in the "kid raising business" according to his chief, Col. Julian H. Hyer, Staff JA, Eighth Service Command who says that "sergeants and JA's keep the population from becoming static."

Capt. Henry G. Norris, writes from Headquarters, 88th Infantry Division, "somewhere in Italy" where he is assistant division JA that he has met Lt. Floyd D. Osborne, assistant division JA with the 88th Infantry Division. These divisions were recently revealed to be in the thick of things in the push on Rome and are referred to as the first all-inductee divisions to go into action.

Capt. Norris says: "Our problem here is quite different from what it was in the States. The nature of the offense are somewhat different, and I might add the numbers are much smaller. I believe, however, that the severity of the sentences is correspondingly higher, which is as it should be. The conduct, the discipline, and the general morale of the men of the division is undoubtedly among the best and highest, and any infantryman who has line companies sweating out their lives trying to adjust themselves there while some fellow not so well trained takes too darned long to dig one big enough for me."

He adds: "I feel the school has done a splendid job for the lawyers in the Army who've had the opportunity to attend it. The lawyer in the Army has been a sadly neglected individual and our profession, unlike the medical profession, has apparently done nothing what ever to help him. I have seen in my organization mediocre men as adjutants handling claims, section VIIs, etc. unqualified as you please; inexperienced laymen representing accuseds in courts and fine lawyers in line companies sweating out their lives trying to adjust themselves there while some fellow not so well trained was doing JTA, defense, adjutant and personnel work. It is organizations like the school which can continue to put lawyers into places in the Army where they really belong."

William V. Ross, recently promoted to captain, and assistant Port JA at New Orleans where he has served since graduation, writes of an amusing case involving a prisoner who ate all the light bulbs out of a stockade and was just starting on the window panes when the Provost Marshal clamped him in a straight jacket. The prisoner testified that he had always had an irresistible urge to eat glass—he just liked candy, only better. And if he were hard pressed he would take razor blades or iron bolts as substitutes. He stated his desire to remain in the Army if he could be furnished a little glass now and then for a midnight snack. Capt. Rose expects that as the Section VIII Board recommended the man's retention in the service that sooner or later "we will be forced to try him for destruction of government property, unless some other means can be found of alleviating his hunger."

Military Justice, Military Affairs and Claims comprise most of the work at the Port. Capt. Ross says. He examines records of summary, special and general courts, and prepares reviews on the latter; he examines and reviews records of Board of Officer proceedings, reports of investigations (line of duty and death), and examines all contracts processed through the command. Preparation of numerous opinions relating to interpretation of ARs, Federal statutes and contracts also come within his province. In addition to the usual run of claims, admiralty claims require attention occasionally.

Capt. Ross finds that all his courses here were invaluable, adding "even Military Science and Tactics . . . although I never thought I would live to see the day that I would admit this. I have been called upon to serve as Assistant Officer of the Day on several occasions and have spent a good many nights climbing in and out of holds of PT boats, landing craft, troop steamers, and liberty ships to check the military guard."

1st Lt. Leo Brack is now at Headquarters, Persian Gulf Command. Very pleased with his assignment, he says: "The JA setup is peculiar with JAGS spread all
over the command. There are seven of us in all over here, a colonel, five majors and yours truly. It is the first time that anyone has seen a JAG 1st Lt. . . . Within two days after my arrival I was made law member of every general court in the Command except the one operating in Tehran."

1st Lt. Richard J. Kent from a fighter command in England writes that his experiences there have been worth while, to see and learn something of England and her people . . . "and I look forward to seeing a few more countries before the finish. I also find my work as assistant JA of this Command most interesting. Aside from a little legal assistance, military justice is the bread and meat of my work; and at various times and in different cases, I perform all the functions of a JA —reviewing charges and referring them to the proper court, trial judge advocate, law member, and reviewing the record of trial. I enjoy especially acting as law member, since so many of our stations furnish excellent lawyers for TJA and defense counsel with the result that cases are well contested."

1st Lt. Harry A. Baldwin is now assistant staff JA, Hq. Ninth Service Command.

2nd OFFICER CANDIDATE CLASS

From "somewhere in France" Lt. Ben Smith writes: "Don't ever let anyone tell you a rear echelon stays far, far behind. I was sung to sleep last night by German artillery shells whooshing over my head, and am just living from apple orchard to apple orchard. I am damned tired of pitching a pup tent under an apple tree (after carefully removing the ever present manure). Have spent most of my time in France digging foxholes. What a life! I eat from a mess kit, wash in water in my steel helmet, sleep on the ground, and NEVER change clothes. I am hibby. Since I've been writing I've heard artillery shells, machine gun fire and a ping from a lone rifle. Either a German or a French collaborationist must be somewhere."

Captains Joseph H. Edgar, Gerret W. Wesselinik, Samuel Sonnenfield, and Ace J. Garland are assigned to the JAGO.

Capt. Edgar not only has taken on a new bar but also has taken on a spouse at Fort Meyer, Va.

1st Lt. William D. Sporborg writes that he is assistant staff JA with an infantry division in New Guinea. "Upon my landing in this tropical isle I spent some time on temporary duty at a base with Lt. Albert Cole (IIth Off. Cl.). After my assignment came through, I did some extensive travelling along the island and have run into numerous JAs, including Herb Hart and Julian O'Malley (1st OC)."

Lt. Sporborg has become division claims officer and Lt. Edgar not only has taken on a new bar but a Transportation Corps center, where he performs the dual function of Camp JA and assistant Port JA in a Transportation Corps center. As to his work he says: "A very important aspect of my work is in advising on a great variety of legal questions which have come in the mail bag, and at various times and in different cases, I perform all the functions of a JA —reviewing charges and referring them to the proper court, trial judge advocate, law member, and reviewing the record of trial. I enjoy especially acting as law member, since so many of our stations furnish excellent lawyers for TJA and defense counsel with the result that cases are well contested."

Captains Joseph H. Edgar, Gerret W. Wesselinik, Samuel Sonnenfield, and Ace J. Garland are assigned to the JAGO.

Capt. Edgar not only has taken on a new bar but also has taken on a spouse at Fort Meyer, Va.

1st Lt. William D. Sporborg writes that he is assistant staff JA with an infantry division in New Guinea. "Upon my landing in this tropical isle I spent some time on temporary duty at a base with Lt. Albert Cole (IIth Off. Cl.). After my assignment came through, I did some extensive travelling along the island and have run into numerous JAs, including Herb Hart and Julian O'Malley (1st OC)."

Lt. Sporborg has become division claims officer and Lt. Edgar not only has taken on a new bar but a Transportation Corps center, where he performs the dual function of Camp JA and assistant Port JA in a Transportation Corps center. As to his work he says: "A very important aspect of my work is in advising on a great variety of legal questions which have come in the mail bag, and at various times and in different cases, I perform all the functions of a JA —reviewing charges and referring them to the proper court, trial judge advocate, law member, and reviewing the record of trial. I enjoy especially acting as law member, since so many of our stations furnish excellent lawyers for TJA and defense counsel with the result that cases are well contested."

Captains Joseph H. Edgar, Gerret W. Wesselinik, Samuel Sonnenfield, and Ace J. Garland are assigned to the JAGO.

Capt. Edgar not only has taken on a new bar but also has taken on a spouse at Fort Meyer, Va.

1st Lt. William D. Sporborg writes that he is assistant staff JA with an infantry division in New Guinea. "Upon my landing in this tropical isle I spent some time on temporary duty at a base with Lt. Albert Cole (IIth Off. Cl.). After my assignment came through, I did some extensive travelling along the island and have run into numerous JAs, including Herb Hart and Julian O'Malley (1st OC)."

Lt. Sporborg has become division claims officer and Lt. Edgar not only has taken on a new bar but a Transportation Corps center, where he performs the dual function of Camp JA and assistant Port JA in a Transportation Corps center. As to his work he says: "A very important aspect of my work is in advising on a great variety of legal questions which have come in the mail bag, and at various times and in different cases, I perform all the functions of a JA —reviewing charges and referring them to the proper court, trial judge advocate, law member, and reviewing the record of trial. I enjoy especially acting as law member, since so many of our stations furnish excellent lawyers for TJA and defense counsel with the result that cases are well contested."

Captains Joseph H. Edgar, Gerret W. Wesselinik, Samuel Sonnenfield, and Ace J. Garland are assigned to the JAGO.

Capt. Edgar not only has taken on a new bar but also has taken on a spouse at Fort Meyer, Va.

1st Lt. William D. Sporborg writes that he is assistant staff JA with an infantry division in New Guinea. "Upon my landing in this tropical isle I spent some time on temporary duty at a base with Lt. Albert Cole (IIth Off. Cl.). After my assignment came through, I did some extensive travelling along the island and have run into numerous JAs, including Herb Hart and Julian O'Malley (1st OC)."

Lt. Sporborg has become division claims officer and Lt. Edgar not only has taken on a new bar but a Transportation Corps center, where he performs the dual function of Camp JA and assistant Port JA in a Transportation Corps center. As to his work he says: "A very important aspect of my work is in advising on a great variety of legal questions which have come in the mail bag, and at various times and in different cases, I perform all the functions of a JA —reviewing charges and referring them to the proper court, trial judge advocate, law member, and reviewing the record of trial. I enjoy especially acting as law member, since so many of our stations furnish excellent lawyers for TJA and defense counsel with the result that cases are well contested."

Captains Joseph H. Edgar, Gerret W. Wesselinik, Samuel Sonnenfield, and Ace J. Garland are assigned to the JAGO.
Lt. Bailey says that he has been through the infiltration course "with all the decorations, including land mines." 1st Lt. Richard O. Jones is assistant staff JA of an Ist Div. in Camp Shelby, Miss., where he has been assigned since graduation.

He writes: "The instruction which I received at the school has stood me in good stead in all of the problems which I have encountered here. Our work is quite varied, dealing of course primarily with military justice, but involving considerable work in the fields of reclassification of officers, line of duty matters, and other subjects covered in the course in military affairs."

Capt. Richard D. Kearney is on duty in the JAGO.

Lt. H. Byron Mock reports that he has made an ocean crossing and now is located at Headquarters, Adriatic Depot, which corresponds roughly to a division as to problems. Even with "the thorough cramming of the course during school days" he finds it difficult "to handle the work from my head— a library is unknown to me some arriving here."

He describes his job as "that of a staff judge advocate and since I am the staff I have the pleasure of getting my nose into every type of problem a JA must face. It is a fine setup and coupled with the peaceful Italian nights and blue sea nearby I sometimes wonder what part of the United States I am in!"

4th OFFICER CANDIDATE CLASS

Lt. Philip B. Matthews is at a replacement pool in New Guinea, "pretty well inland, but hotter than Hades, and I am sure a very less desirable place." He takes issue with a description of New Guinea by Lt. Herbert L. Hart (1st OC) recently printed in these columns, remarking that while Hart's shore may be some improvement from his own inland site, "it is not a paradise."

Lt. Matthews' quarters are tents and foot lockers. He sleeps on a cot encased with a mosquito bar, and eats out of his mess kit in a broiling line. "Every time you go to eat you get up a terrific sweat and try to down a helping of some impossibly cool food. It rains every night which is a help, and by rain, my boy, I mean rain." The island is under Australian control, and Australian currency dominates that while Hart's shore may be some improvement, it is "not a paradise." Matthews has discovered a "beautiful palm-studded beach."

Lt. Thomas A. Wheat, is Camp JA, at Fort Clark, Texas. Prior to that assignment he was assigned to JAGRP, Headquarters, Eighth Service Command, where he operated under the supervision of Maj. Ardel M. Young and Ist Lt. John M. Haley (1st OC). 1st Lt. Paul S. Dauph is assistant staff JA with an Infantry Division.

Ist Lt. John E. Buchler was recently transferred from JAGRP, Headquarters, Seventh Service Command, Omaha, Neb., to the Office of the Staff JA there.

At Fort Dupont, Del., Lt. Peter Flanagan writes: "I have gone through the POM orientation here; there are no chance of going overseas as I am a man without an outfit. Have had a thorough course in maps."

I have been fortunate enough to go out in the field, yes, tent, typewriter, bed roll, etc., and work on the problem, which incidentally was over the terrain of Louisiana and Texas. Lt. Flanagan finds himself up to his neck with court-martial work, having eight GCM courts going full blast at as many different camps; and passing daily on 40 to 60 SCMs records and as many summary court records. In addition, many other matters pertaining to personnel of the command detailed in the hands of the civilian authorities, naturalization proceedings, wills, powers of attorney also come to his desk.

Lt. Valentine J. Sacco is now assigned to the office of the Staff JA, Second Service Command, Governors Island, N.Y. He says: "I have had line of duty cases to review and they are intensely interesting and diversified. Many and diverse are the ways that EMs—and officers—find to get injured or killed. Usually it's line of duty unless gross negligence is present. I have also reviewed summary and special court-martial records and have sent out the usual 'skin' letters. On GCM cases I have drawn up letters of advice for the C.G. and have written some reviews. In addition I have done some claims work, but find that field less interesting."

"Bob Schermerhorn is overseas somewhere. Bill Wolff is assistant JA with an Ist Div., Camp Swift, Tex."

From Brazil comes the following note dated 13 May. "Two months ago today Lieutenants Francis C. Quilty, George E. Carneody, Willard L. Phillips, Clifford W. Peickert and Seely P. Forbes graduated from the JAGS as members of the 4th OC Class, and on the same date Lt. Richard R. Hanna completed his course with the 14th OC Class. Last evening all of those named sat down with other officers for dinner at an officers club somewhere in Brazil, as the guest of a Major Scott, and Maj. John C. McCall, (5th OC Cl.). Delicious refreshments, including native Brazilian cheese were served. Those of us who had been at Ann Arbor could not help but remember the prevalent view that no one would go overseas for four months after graduation."

Censorship prevents our mentioning the countries we have already visited. Perhaps we did not contribute sufficiently to Col. Miller's various charities and funds, but we are all well and anticipate many interesting experiences in many places more distant.

Flash! A more recent letter from Lt. Quilty informs us that the travelers have reached India."

In the two and one half months since he has finished school as a member of the 4th OC Class, Ist Lt. Clifford W. Peickert has traveled over 15,000 miles and he has seen Brazil, Africa and most of India. Assigned as a traveling TJA, he expects to travel another 2500 miles by air before returning to his headquarters early in July. In two weeks he will try four general courts-martial, all involving officers under AW 95."

All is not attendance to paper work where he is stationed in the jungle. He says, "Yesterday I hit the bottom of a slit trench as the Nips came over, and I sure dropped my books and grabbed something more useful when the alert sounded."

Lt. Peickert says the heat is terrific and the place is unhealthy but that he is enjoying the experience a lot as he finds his work interesting. He tells of one night when he and Lt. George Carmody (4th OC Cl.) were sitting in a tent, "dead tired, dirty, and putting powder
on our itches, and I said, 'George, it could be worse, though.' He was sweating and dugested and looked up and said: 'You mean, yeah, we could be sick already.'"

Available the stationary and other weapons of a JA are below the minimum in the jungle bases. Lt. Pelickert says that he hasn't even got a tablet. "We get loose paper and staple them together. I can't find 10 pencils for the court to use in the case I am to try Thursday. I'm not complaining, but when you get near the end of the line, it's different than what the book says."

5TH OC

2nd Lt. Paul F. Wanless writes from Omaha, Neb., where he is assigned to the JAGRP, Office of the Staff JA, Seventh Service Command, that a weekly JAG dinner for all officers of the departments on duty in Omaha including the office of the Staff JA, office of the division engineer and Air Corps is held Thursday evenings at the Hill Hotel. With guests, usually 20 officers are present at the gathering which has been dubbed "The Knitting and Tatting Club."

1st Lt. Louis M. Fribourg (6th OC) and 2nd Lt. William C. Green are assigned to the office of the Division Engineer, Omaha.

2nd Lt. Tyrus R. Williams is now assigned to the office of the Division Engineer, Denver, Colo.

1st Lt. Samuel W. Block writes from Headquarters, AAF Materiel Command, Wright Field, O., that his classmates Eno, Annes, and Jenkins, "all sporting silver bars, turned up at Wright Field." Lt. Eno is assigned to the Patent and Royalties Office, and Lts. Annes and Jenkins are in the Contract Law Branch, where also is Lt. Frank Simpson (4th OC). Lt. Block observes that "Wright Field is rapidly becoming a suburb of Ann Arbor," and that "it is a real tribute to the school to hear it spoken of by all with real affection."

1st Lt. John P. Stafford, Jr., writes that he is assigned to the Military Justice Division of the JAG. With him are Lt. Arthur W. Sinclair and Lt. Hugh D. Rodgers of his class as well as Capt. James F. Dreyer and 2nd Lt. Harold V. Hughston, both of the 10th Officer Class.

1st Lt. John P. Lorenzo is now assigned to the office of the Pittsburgh Ordinance District, Pittsburgh, Pa.

1st Lt. Lawrence M. Kearns is assigned to Industrial Personnel Division, Headquarters, ASF, Washington, D. C. When last heard from he was in Springfield, Mass., as an assistant labor relations officer at the Hummer Manufacturing Company, recently taken over by the Army.

He says that he is working with several officers who are graduates of the school: Major John J. Farrell (12th Officer Class), Maj. George W. Tackaberry (6th Officer Class) and a Maj. Shinnon (presumably George L. of the 11th Officer Class).

2nd Lt. Robert A. Hovis writes that he lost no time in having a change of address as did six of the nine members of the class assigned to the Engineers. He is now assigned to the Contracts and Claims Board, Office of the Chief of Engineers, Washington, D. C.

2nd Lt. Ben A. Engel writes from the U. S. Engineer Office, Fort Norfolk, Va., that he is assigned to the post formerly held by 1st Lt. Harry Pasternak, recently assigned to the Staff and Faculty. Lt. Robert A. Hovis, who was originally slated to replace Lt. Pasternak, remained in the JAGO for the time being.

Lt. Engel says: "All the fellows' assignments were changed and consequently we have landed practically all over the country; Louis Leftwich in Los Angeles, George C. Roder in Seattle, William C. Green and T. Williams in Omaha, and Frank Williams was sent to Boston."

1st Lt. Robert J. Harding is making me of Capt. Farr's geniu in the JA office of the Sixth Service Command, Chicago, Ill.

1st Lt. Ralph J. McCarthy, now at Camp Haan, Calif., where he served as an ensnared man, is getting set for overseas duty, he hopes. Insulation course, firing the pistol, carbine and Tommy-gun, going through a gas chamber, have been keeping him pretty busy. He writes that Lt. Walden stout is at Fort Douglas, Utah.

1st Lt. Gordon B. Gray is assigned to the Cincinnati Ordnance District, Cincinnati, Ohio.

6TH OC

1st Lt. Fred O. Burkholder is assigned to the Office of the Air Judge Advocate, the Pentagon.

1st Lt. P. W. Johnson is now in the JAGRP, Ninth Service Command.

2nd Lt. Charles J. Wring is in the Office of the Chief of Engineers, Washington, D. C.

1st Lt. Albert S. Gerstein is assigned to the Claims Division, JAGO, and 1st Lt. Matthew E. Marsh, to AAF, Pacific Division, ATC. Station No. 11, Hamilton Field, Calif.

1st Lt. L. E. Beckmire is in the Contract Appeal Branch, JAGO.

2nd Lt. George V. Parkhurst is assigned to Special Services Division, ASF, at 25 W. 35th St., New York, N. Y. 1st Lt. Robert G. Phelps may be reached at Hq. First Service Command, Boston, Mass.

1st Lt. Edward F. Huber is assigned to Litigation Division, JAGO.

1st Lt. Walter E. Hooper, Jr. has been assigned to JAGRP, Hq. 15th Airborne Division, Camp Mackall, N. C. Other assignments are: 2nd Lt. Robert W. Boscom to the Armored Command, Fort Knox, Ky.; 1st Lt. James D. Wrightson to the Office of the Air Judge Advocate; and 1st Lt. Willard K. Yost, Jr. to JAGRP, Hq. 2nd Army, Morpith, Ten.

2nd Lt. A. Chatman Mole writes from San Francisco (Calif.) Port of Embarkation, that the '6th OC in force, namely Lts. Morony, Marold, Murphy, Gamble and myself all dropped in on the Port Judge Advocate, Col. Zeigler, on 24 July, the first two being advised to don silver bars, the next two being assigned for duty at Camp Stoneman which rates it a normal month when there are slightly over three hundred (300) courts-martial, and I am on "Lend-Lease" to the Port Marine Casualty Investigation Branch, a mighty interesting assignment.

1st Lt. Gordon W. Rice reports that he is assigned to 1st Headquarters, Special Troops, Troop O, Fort Ord, Calif., where his duties are "quite varied. I am on 30 days temporary duty down at Camp Cooke, Calif., with the 11th Armored Division at present. Lt. Col. Palmer McGrew (2nd Officer Class) is the Staff JA. I am reviewing GMC records with both bands with an occasional claims matter to check over."

1st Lt. Murray Server has been transferred from Governors Island (New York Port of Embarkation) to Watervliet Arsenal Watervliet, N. Y., and 2nd Lt. John M. Whelan from Governors Island to Springfield Armory, Springfield, Mass.
trials is remarkably small. Trials, except in those rare cases when military necessity and national security require secrecy, are openly conducted and the finding and sentences are announced in open court. Cruel and unusual punishments are prohibited. Prisoners are treated humanely and given every possible opportunity to re-establish themselves and earn honorable restoration to the service.

With twenty-five years' experience as a judge advocate, I may be presumed from experience to possess some special knowledge of court-martial procedure. During those twenty-five years, I have never participated in a secret trial or a trial in which there was a sealed verdict. I am able to state with authority that every such trial for the last twenty-five years was conducted behind closed doors in secret session either on account of military necessity or because the evidence was too scandalous for publication. The same is true of secret sealed verdicts, except in those cases where the sentence is kept secret for the protection or benefit of the accused himself. I have never known of a packed court. I have never known of a case in which it was established that the reviewing authority attempted to coerce the court in finding an accused guilty against its own convictions or imposing a sentence which it did not believe justice and/or military necessity warranted. The greater portion of my time during these twenty-five years has been devoted to the prevention of unnecessary trials and to seeing that individuals accused of crime have a fair and impartial trial. Never have judge advocates considered themselves mere prosecutors. I am one of several hundred engaged in the same endeavor. When this war is over, I am confident that the administration of military justice in the Army will be vindicated by the judgment of the millions of men who will have served in it and by all others who are familiar with the system. In any event, I know that whatever else is said, it must be conceded that we have tried, and if there is any just criticism it will be that we have been too lenient and not too severe.

In spite of these circumstances the system which I have described above inevitably meets with criticism either by those who do not understand it, or by those who have been justly punished by it. Already such criticism has begun to appear, with the usual unfamiliarity of its authors with their subject as well as with the facts of the specific cases utilized as illustrations.

I say to you today, with all the seriousness of which I am capable, that the system in its present integrity is necessary and indispensable for the maintenance of discipline in the Army. The American Army is for the most part a self-disciplined army, where leadership takes the place of punishment. But in every army there are men who cannot be led. Leadership must be accompanied and supported by power of prompt, sure and adequate punishment. Officers responsible for discipline must have authority commensurate with their responsibility. The substitution of civil courts or civil procedure for the existing court-martial procedure under the Articles of War, would be fatal to discipline. Court-martial procedure has kept pace with the progress of civil courts. It is now modern, humane and adapted to a democratic American Army, and, although like any other system, it is capable of improvement, in principle it is sound and should, if we are to continue to have well-trained, disciplined armies, capable of winning victories wherever we are forced to fight, then this system must be preserved in all its integral parts.

Members of the Bar have played a great part in the framing of our Constitution and they have continued to play a major role in the enactment and enforcement of the system of laws under which we live. They have been supporters of the good and critical of the bad. It is, therefore, a privilege to meet with you today in an effort to acquaint you with the fundamental principles of court-martial procedure and to incite in you a greater interest in it, because I am convinced that if you really know and understand it, finding it good, you will constitute yourselves its champions.

THE BRANCH OFFICES

India Reports

By Captain Thomas G. Jones, JAGD

In response to a request of Lieutenant General Joseph Stilwell, the Judge Advocate General's Branch Office, including a Board of Review, was established for China, Burma, India under the authority of AW 50/4, by direction of the President, in his letter to the Secretary of War, dated 19 June 1942. The Judge Advocate General, pursuant to the instructions of the Secretary of War, activated the office 27 October 1942.

All except one of the original personnel were in the United States when the office was activated and began operation on 27 October 1942 in Washington, D. C. Colonel Robert W. Brown was assigned as Assistant Judge Advocate General, in charge of the office. He reported in Washington for such duty on Friday, 13 November 1942 and, with the personnel of the newly organized office, departed from Washington, D. C., for India on 10 December 1942. The group arrived in India on 25 December 1942, and the office was opened at New Delhi on 27 December 1942 at Headquarters USAF in CBI.
Personnel

The Judge Advocate General assigned the following commissioned personnel to the Branch Office, all of whom were present upon the opening of the office at New Delhi on 27 December 1942:

Assistant Judge Advocate General:
Colonel Robert W. Brown, JAGD.

Executive Officer and Chief, Military Justice Division:
Major Grenville Beardsley, JAGD.

Board of Review:
Colonel Thomas N. Tappy, JAGD.

Major Ira L. Burgess, JAGD.

Major Claire W. Hardy, JAGD.

On 26 December 1943 Col. Robert W. Brown was relieved by the War Department from duty in the office and assigned to duty in Washington, D. C., as Assistant Commandant, Army Industrial College, and Col. H. J. Seman became Acting Assistant Judge Advocate General.

Col. Seman has continued to head the office throughout the first quarter of 1944, with Captain Jones as his Executive. Captain Jones has served during this period as Chief, Military Justice Division, in addition to his other duties, and Captain Van Ness has served in that division since reporting for duty in the office, with one assignment (9 January to 15 January 1944) as temporary member of the Board of Review. Master Sergeant James J. Farlow, Technical Sergeant Matthew M. Brown, T/3 James A. Blalock and T/4 Kenneth F. Rohmke have been on duty in the Executive and Military Justice Division of the office continuously since their arrival processing GCM records.

Since 15 January 1944 the Board of Review has continued to head the office.

Projects in Operation

This office was created by the President, 19 June 1942: "... empowered to perform for the United States Army Forces in China, India and Burma... and for such other... Forces in foreign countries as you (i.e. Secretary of War) may... specify... the duties which the Judge Advocate General and the Board or Boards of Review in his office would otherwise be required to perform in respect of all cases involving sentences not requiring approval or confirmation by the President."

So far, the activities of this office have been confined to cases arising in CBI Theater.

Review of General Court-Martial Cases

Upon the opening of this office, there were only three general court-martial jurisdictions in the CBI Theater, which number has now increased to eight.

The first case processed by this office (CBI No. 1) was received on 30 December 1942; and by 31 December 1943 a total of 65 GCM cases had been received. Of these first 65 cases, 9 were matters requiring opinions by the Board of Review, while the remainder (54) were disposed of by the Military Justice Division of the office. Advance opinions were rendered in connection with four of the latter cases and in one Board of Review case.

During the first four months of 1944 (January-April) a total of 56 cases were processed, 10 of these cases requiring opinions by the Board of Review and the other 46 being disposed of by the Military Justice Division.

JAGRO Publications

Issuance of mimeographed publications for information and guidance of staff judge advocate officers handling legal matters was begun with Military Justice Memorandum No. 1 on 14 January 1944; and by the end of April a total of ten memoranda, dealing with errors discovered in review of GCM records, had been issued.

Concurrently, beginning with Military Justice Circular No. 1 on 9 February 1944, monthly publication of notes on other matters relating to Military Justice was instituted, four such circulars having been issued by the end of April. Circular No. 1 presented time graphs with appropriate charts and diagrams illustrating the delay in trial and disposition of GCM cases in CBI. Circular No. 2 was an indexed list of 1942-1943 War Department circulars and bulletins that dealt with Military Justice matters. Circular No. 3, covering appropriate and inappropriate court-martial sentences for officers, discussed the effect of suspension from rank, duty or command. Circular No. 4 dealt with the distinction between joint and common offenses, and the proper allegation and trial of such cases.

At this time there are in process of publication a series of guides and primers for use in preparation and trial of all GCM cases. One guide is a memorandum on...
general court-martial trials; another defines the duties of the trial judge advocate and defense counsel; and a third covers the preparation, forwarding, investigation and disposition of charges for trial by general court-martial. A digest of JAGBO opinions in the first 100 cases disposed of by the office has also been prepared and will be published in a matter of days; and a circular with charts and graphs indicating the discrepancy in sentences adjudged for identical or similar offenses in the first 100 cases in CBI has likewise been completed and will soon be ready for distribution.

Salaam Sahibs:

This Branch Office of the The Judge Advocate General established in India with the USAF in CBI is not the biggest but it is the hottest. Today it's only 120°. We won't go further and use that old chestnut that there is no shade, because there is shade and plenty of it at 118° or 112°.

Tri-bladed overhead fans are whirling 24 hours a day. Coolies wet down the khus-khus periodically. A khus-khus is a woven bamboo mat placed over open windows and arches to keep out the stifling heat. Everyone wears a "Frank Buck" sun helmet. Some wear bush shirts . . . these are pajama-coat 4 pocket affairs which are supposed to be cool. Sleeves are rolled; ties were discarded weeks ago. Everyone sleeps under a mosquito net. This is an ingenious device which keeps out mosquitoes and air.

Besides heat, India is also famous for people. There are $89 million of them in an area slightly over 1/4 the size of the United States. Famous among Americans is "Delhi-belly." It is an exquisite type of dysentery. (Toilet paper is 75c a roll.)

90% of Indians are farmers. They generally make about $50 a year. There are 186 different languages spoken. Only 23 are important. On Indian bills the word "rupee" is written in Hindustani, Tamil, Urdu, Bengali, Burmese, Telugu, Malabar, Punjabi, Kanarese and Gyerati.

In religion, 65% follow the Hindu faith, 26% are followers of Mohammed, the other 4,000,000 belong to miscellaneous faiths and cults.

Wandering about India's streets, highways and fields are 200 million cows and bullocks--approximately one for every 2 persons in this land.

Most women wear a small jewel as an ornament in the side of their nose. Some wear ankle bracelets and rings on their toes. Married women wear a red spot in the center of the forehead.

A rupee is worth about 50c. The common type is a paper bill, cigar-coupon size. There are 16 annas in a rupee. There is also a coin worth 1/4 cent called a pie, and one worth 1/4 cent called a pic.

Haircuts cost from 12c to 16c, a shave is worth 6c. Never tell a barber you will take a massage. He rubs his knuckles into your pate for about 10 minutes and then after puffing you into a sense of security he suddenly gives a bone-cracking twist to your head. That ends the massage. It also causes a temporary cessation of ability to see straight.

The dhobie (laundryman) washes your clothes and mashes all buttons to bits for $2.50 per month exclusive of the cost of new buttons.
Colonel Erana Made Judge Advocate General of Philippine Army

Mariano A. Erana has been commissioned a Colonel and Judge Advocate General of the Philippine Army by President Sergio Osmeña of the Philippines. He was also placed in charge of the Department of Justice, Labor, and Welfare and is to serve as a member of the War Cabinet of President Osmeña. Colonel Erana was relieved from duty as a Lieutenant Colonel, Judge Advocate General’s Department, Army of the United States in order to accept the appointment. A native of the Philippines, Colonel Erana received the L.L.B. and L.M. degrees from the National University, Washington, D.C., in 1919 and the degree of Master of Patent Law and Bachelor of Science in Economics from the University of Pennsylvania in 1924.

Prior to duty on extended active duty as a Major in the Judge Advocate General’s Department of the U.S. Army on 13 September 1922, he had served as Legal Consultant to the Board of Veterans Appeals, Chairman of the Adjutancy Section, and Chairman of the Claims and Rating Board of the Veterans Administration. Colonel Erana is a graduate of The Judge Advocate General’s School and the School of Military Government at Charlottesville, Virginia. He was on duty in the Office of The Judge Advocate General, U.S. Army from 22 November 1912 to 9 June 1944.

Lt. Wayne Williams Wins American Bar Association Essay Contest

The annual essay contest conducted by the American Bar Association pursuant to the provisions of the will of the late United States Circuit Judge Erskine M. Ross of California, was resolved last month and 1st Lt. Wayne DeA. Williams, JAGD was awarded the prize of $3000.00. Lt. Williams has been on duty in the U.S. Engineer’s Office, Missouri River District, O’neill, Nebraska and is now stationed in the European Theater of Operations.

Colonel Charles P. Burnett, Jr. Missing in Pacific Area

Next of kin of Colonel Charles P. Burnett, JAGD have received notice from the War Department that he has been missing in the Pacific Area since 26 July 1944.

A native of Seattle, Washington, Colonel Burnett received his L.L.B. degree from the University of Washington in 1927 and was engaged in the practice of law in Seattle from 1927 to 1941. He was commissioned a captain in the Judge Advocate General’s Department, Reserve, on 14 March 1935 and was called to active duty on 29 May 1941, reporting for duty in the Office of The Judge Advocate General where he was assigned to the Military Affairs Division. He later became Chief of the Officers Branch of that division and in August 1943, was assigned to the Office of the Chief of Staff and detailed to the General Staff Corps.

Colonel Archibald King Addresses Bar Meeting at Mexico City

“International Law—a Living Force” was the subject of a paper read in Spanish by Colonel Archibald King, JAGD, before the annual meeting of the Inter-American Bar Association at Mexico City last month. Colonel King, Chief of the War Plans Division, Office of The Judge Advocate General, was an official delegate of the American Bar Association to the Mexico City convention.

“It has often been said during the present war, and sometimes even by lawyers, that there is no longer any such thing as international law, that it has ceased to exist. It is true that it has been violated, frequently and seriously violated by our enemies,” Colonel King pointed out. He went on to say, however, that our municipal
law and that of other nations, is often violated, yet international law, like domestic law, does not cease to exist merely because it has been breached and that even in the midst of the greatest war in history, it is a living force.

**JAGD Officers Contribute to Legal Periodicals**


**160 Law Schools Represented in the Department**

A recent compilation by Major Randolph Kerr, Classification officer, Office of The Judge Advocate General, reveals that the officers of the Department received their legal training from 160 law schools. The survey shows that only twenty-three officers of the department studied in law offices rather than law schools. All those attending law schools received law degrees except 82.

**JAGD Observes 169th Birthday 29 July**

The anniversary of the founding of the Judge Advocate General's Department of the Army by the Continental Congress on 29 July 1775 was observed by members of the corps stationed throughout the world. "Today, American Judge Advocates, all seasoned lawyers, thoroughly indoctrinated in the democratic principles for which we fight, are giving counsel to the commanders of our forces," Major General Myron C. Cramer commented. "We have made a careful selection of our officers. We have methodically trained them in military and have assigned them to key places with confidence. That our trust has not been misplaced is almost of our forces," Major General Myron C. Cramer comprehended.

**General Officer Promotions in JAGD**

The War Department announced on 21 June the temporary promotion of Brigadier General Archer L. Lerch, The Provost Marshal General, to the rank of Major General and the temporary promotion of Colonel James E. Morrisette, Assistant Judge Advocate General to the rank of Brigadier General.

General Lerch, a native of Nebraska, received his B.A. degree from the University of California and his LL.B. degree from the George Washington University Law School. He became a Regular Army officer in 1917 and advanced through the grades to Major of Infantry and transferred to the Judge Advocate General's Department in 1938. He served as Executive of the Office of The Judge Advocate General from July, 1939 to July 1941 when he became Deputy Provost Marshal General. He succeeded Major General Allen W. Gullion as The Provost Marshal General on 21 June.

General Morrisette was born in Alabama and received B.A. and LL.B. degrees from the University of Alabama, where he was later professor of law. He served as a Judge Advocate during World War I and became a captain, JAGD, Regular Army in 1920. He received the temporary grade of Colonel in 1941 and became Assistant Judge Advocate General in charge of military justice matters in October, 1945, with station in Washington, D. C. He recently received an important overseas assignment which has not been disclosed.

**San Bernardino Army Air Field Bar Association Formed**

Word reaches Washington of the formation of what is probably the first Bar Association of its kind at San Bernardino Army Air Field, California, when 23 officers, all of whom were practicing attorneys prior to entry in the armed forces, banded together under the sponsorship of the Staff Judge Advocate of the San Bernardino Air Service Command, Lt. Colonel Jerry A. Harr, JAGD. The association meets monthly to discuss current legal problems and to listen to addresses by prominent members of the bench and bar. Among the members of the group are, Lt. Robert E. Michalski, JAGD, of the Wisconsin Bar, and Major David G. Taylor, JAGD, of the Virginia Bar, Lt. Howard M. Bungardner, JAGD, of the Colorado Bar, and Lt. Colonel Harr, of the Illinois Bar.

**Civilian and Military Personnel of Washington Office Enjoy Picnic Outing**

Civilians and officers of The Judge Advocate General's Office and their guests, about 400 strong, boarded a Potomac River steamer Sunday morning, 20 August and spent the day at Marshall Hall picnic grounds, 22 miles below Washington. A day of fun and relaxation was carefully planned by the committee and soft-ball games, horseshoe pitching, novelty races, dramatic skits, a beauty contest, and the picnic lunch all added to the enjoyment of the occasion.
LEGION OF MERIT

To: Justin W. Harding, Colonel, JAGD, 2311 Leu­ nayne Street, Los Angeles, California.

For: Exceptionally meritorious conduct in the performance of outstanding services from 15 May 1944 to 1 January 1945 in the Alaska Department.

Colonel Harding was born in Franklin, Ohio, attended the U. S. Military Academy and Colorado School of Mines, and received the LL. B. degree from the University of Michigan in 1914. He was U. S. District Attorney in Alaska from 1926 to 1928 and U. S. Judge, First Dis­ trict of Alaska from 1928 to 1957. Prior to entering on extended active duty he was Assistant Attorney General of Ohio.

For exception­ ally meritorious con­ duct in the per­ formance of out­ standing services from 9 January to 13 October 1944. As Judge Advocate, Fifth Army, he has displayed unusual professional skill, rare judgment and devotion to duty. In matters of military justice his faithful and untiring efforts in advising and improving the views of the Army Commander respecting discipline and leadership to the many Fifth Army units situated in distant areas were reflected in the resulting superior degree of efficiency maintained. He coordinated the establishment of appropriate court-martial in key geographical locations, and skillfully trained many court members, which resulted in the prompt and efficient disposition of military offenses. His reviews of general court-martial cases have been scholarly, sound, and judiciously accurate, displaying a keen insight and background of training in the field of law. His wealth of administrative ability and experience contributed invalu­ ably to the smooth and efficient functioning of the Fifth Army Staff. He anticipated many problems of occupation of the Fifth Army in Italy in respect to civil courts, law, and order, and phases of Allied Military Government delegated to the Commanding General, Fifth Army, thereby contributing outstandingly to the splendid results by the Fifth Army in the phases of the invasion. Entered Military service from San Francisco, California.

Colonel Michelwait was born in Iowa and received the B.S. degree from the University of Idaho in 1918. A Regular Army officer, he was detailed in JAGD in 1930. He received his LL.B. degree from the University of California and is a graduate of the Army Industrial College. Prior to entering on overseas service, he was Chief of the Military Affairs Division, Office of The Judge Advocate General.

To: Claude B. Michelwait, Colonel, JAGD, 4700 Court­ land Road, Chevy Chase, D. C.

For: Exceptionally meritorious conduct in the performance of outstanding services from 9 January to 13 October 1944. As Judge Advocate, Fifth Army, he has displayed unusual professional skill, rare judgment and devotion to duty. In matters of military justice his faith­ ful and untiring efforts in advising and improving the views of the Army Commander respecting discipline and leadership to the many Fifth Army units situated in distant areas were reflected in the resulting superior degree of efficiency maintained. He coordinated the establishment of appropriate court-martial in key geographical locations, and skillfully trained many court members, which resulted in the prompt and efficient disposition of military offenses. His reviews of general court-martial cases have been scholarly, sound, and judiciously accurate, displaying a keen insight and background of training in the field of law. His wealth of administrative ability and experience contributed invalu­ ably to the smooth and efficient functioning of the

Honor Roll

To: Edward J. Walsh, Colonel, JAGD, 9211 Harrison Street, N.W., Washington, D. C.

For: Service as Chief of the Legislative Branch, Legislative and Liaison Division, War Department, during the period June 25, 1912 to May 25, 1914. His duties were such as to require a high degrees of individual responsibility, initiative and freedom of action in the performance of the functions of the Legislative and Liaison Division in controlling the application of War Department policies concerning legislation initiated by the War Department and legislation affecting the War Department which was initiated in the Congress; the presentation of War Department views and policies to the Congress, through legislative reports and through the appearance and testimony of War Department wit­ nesses before Congressional Committees; and the formulation and operation of effective procedures within the War Department concerning legislative matters. By his skill, high professional attainments, technical knowledge and executive ability he has made important contributions toward securing legislation vital to the War Depart­ ment in time of war. Because of his sound advice and counsel, the War Department was enabled to accomplish successfully the enactment of legislation to implement the present important and extensive program. His thor­ ough knowledge of the technique of legislative proce­ dures and energetic processing, his tact, loyalty and sense of duty were demonstrated in these accomplishments.

Colonel Walsh, a native of Washington, D. C., re­ ceived the LL.B. degree from Georgetown University in 1914. A Regular Army officer, he was detailed in the JAGD in 1932. He is now on foreign duty.

To: George M. Welsh, Colonel, JAGD, 345 E. 23 St., Brooklyn, N. Y.

For: Services from July 20, 1912, to May 10, 1914. As Staff Judge Advocate of Headquarters, U. S. Army Ser­ vices of Supply, Southwest Pacific Area; and later of Headquarters, U. S. Army Forces in the Far East, he displayed unusual professional ability, discernment and sound judgment. His superior background in legal affairs, combined with sagacity and unyielding devotion to duty, enabled him to make an important contribution to the administration of military justice in the South­ west Pacific Area.
SOLDIER'S MEDAL

To: First Lieutenant (then Sergeant) Boster Cole, JAGD, 909 West 19th Street, Beaumvue, Texas.

For: Heroism in aiding in saving the lives of many civilians, in evacuating the dead and wounded, and in maintaining calm and order aboard the ship on which he was a passenger when it was attacked by a German bomber on 16 June 1915.

Sergeant Cole was cool, calm, and unruffled during moments of great stress. He aided the crew in lowering the only seaworthy vessel, and when all believed the ship to be sinking, Sergeant Cole, with disregard for his own safety, assisted others in leaving, refusing to leave the ship until he was certain that all the injured had been cared for.

Upon landing, Sergeant Cole's efforts aided the immediate transfer of the wounded to a hospital. The courage, presence of mind, and high degree of leadership displayed by Sergeant Cole, the only American passenger on a foreign vessel, not only reflects great credit upon himself and the military service but also upon the entire American nation.

Lieutenant Cole was graduated from Hardin-Simmons College in 1922 and was admitted to the Texas Bar in 1933.

BRONZE STAR

To: Vincent C. Allred, Major, JAGD, 934 Orange Street, Leavenworth, Kansas.

For: Meritorious service at New Caledonia from 9 February 1943 to 1 December 1943. As Staff Judge Advocate, First Port of Embarkation and later of Service Command, Major Allred contributed to the organization and development of that command as an astute counselor of sound judgment and high professional knowledge. His services were of inestimable value in instituting and correlating proper legal procedures and in meeting delicate international situations arising from the operation of American troops on foreign soil. Ever alert to the needs and interests of United States Armed Forces, he skillfully established contracts and agreements with various civilian agencies. Throughout the period cited, Major Allred has rendered invaluable service in the solution of complex problems incident to the organization and mission of that headquarters, reflecting great credit upon himself and on the military service. Major Allred entered military service from Leavenworth, Kansas, 20 March 1934. Prior to receipt of the B.L degree from the University of Kansas in 1929 and engaged in the practice of law at Leavenworth, Kansas, prior to entry on extended active duty.

To: Ernest M. Brannon, Colonel, JAGD, 3612 Ingman Place, N.W., Washington, D. C.

For: Meritorious service in connection with military operations against the enemy as Judge Advocate of an Army in England from 20 October 1943 to 31 May 1944. Colonel Brannon by his sound judgment, professional skill, and able knowledge of legal matters rendered invaluable assistance in the solution of the many complex problems incident to First Army's activities in a foreign country, and contributed in an outstanding manner to the planning for the invasion of the European continent. Entered the United States Military Academy from Florida.

Prior to embarkation for overseas service in September, 1943, Colonel Brannon was Chief of the Contracts Division and Coordinating Coordinator in the Office of The Judge Advocate General of the Army, in Washington. He is a graduate of the U.S. Military Academy and the Columbia University Law School.

To: Jack L. Oliver, Captain JAGD (Field Infantry), Cape Girardeau, Missouri.

For: Meritorious service in connection with military operations against the enemy from 1 February to 8 February 1944. As adjutant of an infantry regiment, Captain Oliver landed early in the assault to establish the regimental command post. His outstanding initiative, sound judgment and devotion to duty resulted in the establishment of prompt and effective control and in the continued high order of efficiency in the Regimental Administrative Section during the remainder of the operation. During the prolonged absence of the Regimental Commanding Officer and the Regimental Executive Officer at the front lines, Captain Oliver assumed with the Regimental Plans and Training Officer the responsibility of operating the command post. He handled this assignment in a superior manner and kept higher headquarters informed of the exact situation at all times. By his diligence and foresight, Captain Oliver

(Continued on Page 62)
and Col. Corridon are here, too, along with officers of the Office of the Chief of Claims.

Sirs:

I came out with the assault troops in the operations on Saipan and will remain here for some time, I suppose. It was a grand show and the conduct of the troops was according to the highest traditions of the Army, Navy, and Marine Corps.

JOHN M. JONES,
Colonel, JAGD

Sirs:

After vicissitudes with which you are better acquainted than I, I finally set foot, bedding roll and duffel bag upon North Africa. So far as terrain and climate are concerned it is remarkably like California. Fogs roll in of a morning over cliffs and brown hills along the shore and moisten thriving crops of tomatoes, spinach, and beans, groves of olive trees and rich vineyards. Valleys are carpeted with grain, and hillside are carefully terraced for orchards and gardens as they are in the Santa Clara Valley at home.

Wine is plentiful and powerful, very good, and costs about half as much as ours. I don't know whether food is cheap, but what goods there are of European or native manufacture are dear. Hemp, hides and wood, some silver, tin and brass seem to be the main materials used for shoes, wallets and pocketbooks, carved boxes, belts, trays, rings and bracelets made by the Arabs and sold for very fancy prices. These articles, a few colorful wool scarves and rugs, and perfumes distilled by the French from roses and other native flowers comprise the bulk of goods for sale in shops which usually display most of their meager stock in their windows; shelves are nearly bare. However the local economy has steadily improved since the arrival of the allied forces; people, camels, horses and dogs are fatter than they were two years ago, and the miniature donkeys are more independent and stubborn.

WILLIAM B. KUDER,
Major, JAGD

Sirs:

Events as relating to the JA Section go forward in a fairly routine way with the usual assortment of humor, Pathos and tragedy. Since the fall of Myitkyina we are no longer able to consider ourselves as within the class of front-line troops, and life is much the same as it is at Delhi except the scenery is much more attractive. Speaking of Myitkyina the only thing exciting to occur of late is that I happened to be at Myitkyina the day it fell. I arrived the morning after organized resistance ceased, and by about 3:30 in the afternoon I had completed my work. I was very anxious to go through the town and Colonel Ascensio and Lt. Col. Runsey were of the same mind. We took a jeep and started for the city.

In its normal existence, Myitkyina was a town of about 25,000 inhabitants. As we approached it we saw in the outskirts a piece of woodland. All of the leaves and small branches had been shot from the trees by machine gun and rifle fire. The trees were as naked as they would be at home in the winter time. We went on into the city and I think we traversed the whole town.

We saw one house which seemed to be practically intact. The rest was a scene of complete devastation. Houses here principally indicate but a few upright timbers. Almost all the roofs are gone, most of the walls were down, no house had more than one complete wall, and the scenes of ruin were greater than had there been a fire which levelled everything to the ground.

All the streets were full of bomb and shell holes, and it was amazing to see our jeep laden with not only ourselves but all of the official photographers and soldiers who climbed on and off, up to a total of nine at times, going through and around these holes.

At one point the three of us were rolling down a street looking at some Chinese over in some tall grass. They started waving and yelling and making a tremendous noise. We stopped and they got the idea over to us that we had driven down to where there was a nest of snipers. I was the only one who was wearing a gun. We didn't see any snipers, and while we were debating what to do a Chinese about 100 yards back of us let off a tommy gun. Colonel Ascensio said, "He never did see a jeep take so long to turn around!" At that time we thought it was nonsense, but I have been since informed the last of the snipers were killed several days later. We saw a number of dead Japanese, and were aware of others whom we could not see. I was interested in the complete detachment with which one views the body of a dead enemy.
It was quite amazing to have a Chinese soldier hop on to the hood of the jeep and start talking in perfect American. Apparently there are a good many Chinese-Americans in the Army, either in our service or the Chinese. They were laughing and yelling, and every time we met any of them they waved and yelled. "Ding Hoe" (good stuff). I must say it was a big day for me, too!  

CLAIRED. V. HARDY  
Lt. Col., JAGD

—And New Guinea.

Sirs:

The first night of our voyage was rather rough, so much so, that a number of the les robust succumbed to mal de mer. On the morning of the third day we were treated to a little excitement. It so happened that we came across a floating sea mine, one which, no doubt, had broken away from its moorings (its nativity being unknown). Our skipper, being one who favors making our world again safe for democracy and making sea lanes safe for ships, had our ship turned about for the purpose of destroying the mine.

Well, Sir, that was my first experience of being under fire in World War II. In fact, I saw to it that I was under fire. When the guns began pouring lead into that mine, I got underneath one of the turrets so that I could say I'd been under fire. I am of the opinion that my being under fire in that instance entitles me to a star in my ribbon. At any rate, we destroyed the mine.

After a 23-day voyage, we landed at a spot in New Guinea. And what a spot! The deepest and stickiest mud-hole in New Guinea, which, a few weeks previously, had been jungle. When we arrived at "our spot" I ran aboard The Advocate and saw 1st Lt. Herbert L. Hart’s star in my ribbon. At any rate, we destroyed the mine. It is demonstrated here that the female is more deadly than the male. These anopheles babies who bite one are all females. The males are more considerate and do not bite in ways that one would not appreciate.

I will now return to the mud-hole which was destined to be my home during my stay on the island. It is a new camp, and, when I arrived, there was mud everywhere. Our tents were set up in the mud, we stood or sat in the mud to eat our chow, and the nightly rains and the terrible humidity made the place seemingly uninhabitable. The officers at this Rep. Dep. line up with the G. I.'s for chow and then sit in the mud to eat.

Col. Smith, in command of the Depot, has done wonders during the past two weeks, pulling us out of the mud. Sand has been hauled in on our streets and everything is beginning to look toward a real comfortable camp. I believe they selected this spot as means of initiating new officers. My street (known as Angle-worm Alley) is now covered with sand, as is my tent floor.

This island is certainly rockedey. It is now winter here, with the sun shining down from the North, and regardless of it being winter it is as hot as the place emphasized by our Methodist sky-pilots. It is the dry season, therefore, it rains a deluge every night.

Getting down to more personal items, this is strictly a masculine camp, with only a couple of Red Cross gals representing the gentler sex. An empty can with holes punched in the bottom, held over one’s head, serves as our shower bath. I have supplemented this by what I have named by celestial shower. Have had a small platform built in front of my tent, extending out into Angle-worm Alley and when it pleases God to send a rain, one may see me venturing out to my shower. It is demonstrated here that the female is more deadly than the male. These anopheles babies who bite one are all females. The males are more considerate and do not bite in ways that one would not appreciate.

I will now return to the mud-hole which was destined to be my home during my stay on the island. It is a new camp, and, when I arrived, there was mud everywhere. Our tents were set up in the mud, we stood or sat in the mud to eat our chow, and the nightly rains and the terrible humidity made the place seemingly uninhabitable. The officers at this Rep. Dep. line up with the G. I.'s for chow and then sit in the mud to eat.

Col. Smith, in command of the Depot, has done wonders during the past two weeks, pulling us out of the mud. Sand has been hauled in on our streets and everything is beginning to look toward a real comfortable camp. I believe they selected this spot as means of initiating new officers. My street (known as Angle-worm Alley) is now covered with sand, as is my tent floor.
LIST OF Promotions

IN THE JUDGE ADVOCATE GENERAL’S DEPARTMENT

** * **

15 May to 15 August 1944

** * **

TO MAJOR GENERAL

Letch, Archer L.

TO BRIGADIER GENERAL

Morgenstern, James E.

TO COLONEL

Beck, William H., Jr.

TO LIEUTENANT COLONEL

Blacksock, Leo C.

TO MAJOR

Bradley, Stuart R.

TO CAPTAIN

Baker, William H., Jr.

TO FIRST LIEUTENANT

Rosenthal, Milton E.

TO CAPTAIN

Baker, William H., Jr.

TO MAJOR

Letch, Archer L.

TO LIEUTENANT COLONEL

Blacksock, Leo C.

TO MAJOR GENERAL

Letch, Archer L.

TO BRIGADIER GENERAL

Morgenstern, James E.

TO COLONEL

Beck, William H., Jr.

TO LIEUTENANT COLONEL

Blacksock, Leo C.

TO MAJOR

Bradley, Stuart R.

TO CAPTAIN

Baker, William H., Jr.

TO FIRST LIEUTENANT

Rosenthal, Milton E.