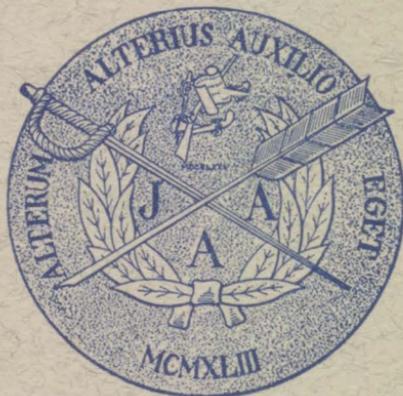


The Judge Advocate JOURNAL



Published By

JUDGE ADVOCATES ASSOCIATION

An affiliated organization of the American Bar Association, composed of lawyers of all components of the Army, Navy, and Air Force

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Executive Secretary and Editor

RICHARD H. LOVE
Washington, D. C.

Bulletin No. 38

December, 1966

Publication Notice

The views expressed in articles printed herein are not to be regarded as those of the Judge Advocates Association or its officers and directors or of the editor unless expressly so stated.

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Published by the Judge Advocates Association, an affiliated organization of the American Bar Association, composed of lawyers of all components of the Army, Navy, and Air Force.

THE PRESIDENT'S MESSAGE

On behalf of the officers and directors, we take this occasion to express our appreciation for your confidence and pledge to you our dedicated efforts to serve the Judge Advocates Association during the next year. We recognize the great responsibilities of our duties and will bend every effort in the best interest of the Association and its membership.

Over the past years, this organization has attained an enviable reputation. We have had our ups and downs as is true in every organization but we have moved forward steadily and we are stable. This is the national bar association of military lawyers and we are affiliated with the American Bar Association. Many problems have been presented to us and in every instance they have been met.

One need only scan the list of members on the Board of Directors, to appreciate the prestige of your organization. They speak with a powerful voice, as one for all services, in all matters pertaining to military law.

If we have failed in any one segment of our operation, I would say that we have not reached out far enough to tap eligible members. I was amazed to learn that many of my military friends who have heard of the election had never been approached for membership though they were eligible and really anxious to become members. In num-

bers there is strength and security so let's beat the drums and start signing up new members.

In the very near future, we plan to update our membership directory. Naturally, we will want to include as many new members as possible. Please check your present directory and make sure that our information is correct. If you have any changes or suggestions please send them in NOW! Likewise, if you are not current in your dues, your name must necessarily be stricken, so if you are delinquent please correct that situation NOW! Every military lawyer should be a member of the Judge Advocates Association and listed in its directory.

In another section of this bulletin you will find listed the various state chairmen. I am asking each one of them to begin now to set up the state organization and to report to our Headquarters the results of their elections and their organization setup. Each state will conduct its own membership drive. Success will be duly recognized at our next Annual Meeting in Honolulu on August 7, 1967.

Incidentally, the package deal by the American Bar Association is very attractive and I am sure that you will all want to attend this annual meeting. Be sure to send in your reservations as soon as possible in order to secure the accom-

modations you would like and deserve. I would like to see the Members of the Judge Advocates Association get their reservations in early so that we can be assured of good attendance.

I wish to take this opportunity to express my appreciation for the great work which was done by my

predecessor, Cdr. Penrose Lucas "Whitey" Albright. The year rolls by so fast that one hardly gets started on a project when the term is over. Cdr. Albright recognized this but he is not stopping—we are working together in your best interest.

Daniel J. Andersen



Colonel Joseph F. O'Connell, Jr., a charter member of the Association, died in Boston, on August 12, 1966, after an illness of several months. He had been elected to another term as director of JAA only four days before his death.

Colonel O'Connell served in the Pacific Theatre during World War II as a judge advocate with the Army and had continued to his death as an active reservist. He was admitted to the Massachusetts Bar in 1938 and engaged in the private practice of law in Boston as a member of the firm of O'Connell and O'Connell at 31 Milk Street.

Always active in the affairs of JAA, Colonel O'Connell served as its president in 1953-54 and as its representative in the House of Delegates of the American Bar Association from 1954 to 1957. He never missed a meeting of the Board of Directors or an Annual Meeting of the Association in all the many years he served on its governing body until he was stricken in June.

The Board of Directors, pursuant to its authority under the by-laws, filled the vacancy in the Board created by Colonel O'Connell's death by appointing his brother, Colonel Lenahan O'Connell, who is the surviving partner of the Boston law firm.

Report:

THE 1966 ANNUAL MEETING

The twentieth annual meeting of the Association was held in the Sergeants' Lounge of the Black Watch Armory in Montreal on the 8th of August, 1966. About 100 of the members were present.

The President's Report

The president, Commander Penrose Lucas Albright, USNR, of Washington, D. C., made the following report:

The Judge Advocates Association, the bar association of the military lawyer, is larger in membership than some 18 state bar associations. Yet its influence in military law matters and on behalf of the military lawyer extends far beyond its size. It is respected and heard in Committees of Congress, in offices of the National Defense Establishment and in the governing body of the American Bar Association. Looking back, our Association has functioned well and accomplished much—often in the face of considerable handicaps. With an active membership composed of distinguished advocates and leaders in the military law field, there is every reason to believe that the Association still has much to contribute. Support of the Judge Advocates Association means support of the lawyer in uniform, support for better justice for members of the

armed services, support of better legal services to the armed services and support for improved relations between the legal personnel of the armed services and all their components.

Legislative Matters

During the past year, I have had the privilege of serving as president of the Association. I want to report to you some of the things that the Association has done during the year. I was pleased to appear and testify at some length before the Subcommittee on Constitutional Rights chaired by Senator Sam Erwin. In my judgment, this body is engaged in one of the most important pieces of work being done on the Hill, and it is doing it thoroughly and without undue fanfare. Besides the Constitutional rights of military personnel, the subcommittee is investigating:

1. Constitutional rights and the administration of criminal justice, including revision of Federal bail procedures and preventative detention.
2. Separation of church and state.
3. Rights of Federal employees.
4. Free press and fair trial.
5. Constitutional rights of the American Indian.
6. Rights of the mentally ill including both civil and criminal aspects.

My prepared statement followed the recommendations of the JAA's

Legislative Committee on the bills under consideration as previously published in the June 1964 issue of the Judge Advocate Journal.

Numerous questions were posed by Senator Erwin and committee counsel. From the tenor of the inquiries, it was clear that the subcommittee was disturbed over present administrative procedures which can lead to the imposition of less than honorable discharges without confrontation of accusers, without representation by legally trained counsel and in proceedings which may be wholly or in part based on hearsay evidence. Already the Department of Defense has acted by directives to insure that legally trained counsel are made available in these proceedings. The Erwin bills are now being redrafted in the light of the hearings. The anticipated outcome is this: There will be considerable tightening up of procedures leading to less than honorable discharges, some strengthening of statutory prohibitions against command influence, some reorganization of review boards and enhancement of their prestige, authorization for General and Special Courts-martial consisting of the Law Officer alone in certain cases, provision for pre-trial hearings in courts-martial proceedings, and provision for the assignment of legally trained defense counsel in Special Court proceedings where a BCD may be imposed. In summary, there will be more work and more responsibility for the uniformed lawyer.

For many years this Association has supported specific legislative measures to give the lawyer in uniform a greater incentive for a career in the service. The measure with the greatest promise of enactment along these lines has been the Pirnie Bill (HR 3313) which this Association has wholeheartedly supported. In the face of opposition from the Department of Defense, which recommended that action on the Pirnie Bill be deferred for further study with other pay matters, nevertheless, the full Armed Services Committee of the House favorably reported out the bill on 15 June 1966. Previously, General Reginald C. Harmon, Chairman of the JAA Legislative Committee, testified with respect to the Pirnie Bill, as representative of the JAA and ABA, at hearings before subcommittee # 2 chaired by Mr. F. Edward Hebert. The Pirnie Bill undertakes to equalize the pay longevity credit of lawyers and others, having graduate degrees which are an academic prerequisite for their performance of duties upon being commissioned, with the pay longevity credit acquired by their undergraduate contemporaries who entered the military service as commissioned officers immediately after receiving a college baccalaureate degree. General Harmon pointed out to the subcommittee that a similar provision opposed by DOD had been stricken from the Military Pay Act of 1964 on the ground that it was not strictly a pay matter and that

to defer the Pirnie Bill now as a pay matter would be inconsistent with this precedent. I also as president of the Association strongly urged immediate consideration of the measure. If the Pirnie Bill is enacted, most judge advocates and legal specialists who received promotion credit for the years devoted to acquiring a law education will receive a pay boost. For newly commissioned first lieutenants and lieutenants junior grade, this will exceed \$140 per month. I am happy to advise you that the full House has passed the Pirnie Bill and this Association shall now urge its passage by the Senate.

Life Membership

The Board of Directors at its November 1965 meeting established a new category of membership in the Association: Life Membership for eligible members making a single lifetime payment of dues in the sum of \$100. At this meeting, the Association has 28 Life Members. The first life membership application was received from Colonel Edward R. Finch, Jr., USAFR, of New York City. Colonel Finch has been an active member of the Association since 1957. Life membership frees the member of the inconvenient obligation of paying annual dues. More importantly, it is an affirmation by the member of JAA aims and an expression of confidence in the future of the Association. In time, it should add substantially to the Association's

income. The Life Members at this time are:

Cdr. Penrose L. Albright,
USNR, Washington, D. C.

Col. Daniel J. Andersen,
USAFR, Washington, D. C.

Major Edward Ross Aranow,
USAR-Hon. Ret., New York City

Col. Glenn E. Baird, USAR,
Chicago, Illinois

Lt. Col. Laurence D. Benamati,
USAR-Hon. Ret., San Francisco

Col. Pelham St. George Bissell,
III, USAR, New York City

Cdr. Frederick R. Bolton,
USNR-Ret., Detroit

Col. John E. Coleman, USAR-
Ret., Dayton, Ohio

Capt. Winthrop S. Dakin,
USAR-Hon. Ret., Northampton,
Mass.

Lt. Col. Francis J. Gafford,
USAR, Harrisburg, Pennsylvania

Col. Edward R. Finch, Jr.,
USAFR, New York City

Col. John H. Finger, USAR,
San Francisco

Capt. Kenneth F. Graf, USAR-
Hon. Ret., Manchester, New
Hampshire

Cdr. Kurt Hallgarten, USNR,
Washington, D. C.

Col. Ingemar E. Hoberg,
USAR, San Francisco

Capt. Hugh H. Howell, Jr.,
USNR, Atlanta, Georgia

Col. Richard H. Love, USAR,
College Park, Maryland

Major Edwin L. Mayall,
USAR-Hon. Ret., Stockton, Cali-
fornia

Capt. Stanley J. Morris, USA-Ret., Chicago, Illinois

Col. Joseph F. O'Connell, Jr., USA-Ret., Boston, Massachusetts

Col. Victor Orsi, USAF, Sacramento, California

Lt. Jack Pew, Jr., USNR, Dallas, Texas

Capt. Myron A. Rosentreter, USA-Ret., Oak Harbor, Ohio

Capt. Richard E. Seley, USA-Ret., West Orange, New Jersey

W/O Maury L. Spanier, USA-Ret., New York City

Lt. John E. Troxel, USA-Ret., San Francisco

Lt. Col. William G. Vogt, USA-Ret., Carrollton, Illinois

Major Guy E. Ward, USA-Ret., Beverly Hills, California

Special Study Groups

At the meeting of the Board of Directors in June 1966, authorization for the establishment of special study groups was made and five such groups were formed for the following studies: Group # 1—To investigate and report with recommendations as to the effect of "specialist pay" for judge advocates and legal specialists as a career incentive. Group # 2—To investigate, report and make recommendations as to career incentives for judge advocates and legal specialists other than pay. Group # 3—To investigate, report and make

recommendations as to interservice cooperation between judge advocates, legal specialists and civilian attorneys of the defense establishment. Group # 4—To study, report and make recommendations with regard to the service of judge advocates in the National Guard, and Group # 5—To prepare a Military Lawyers' Guide specially directed toward providing ready answers to the practical problems confronting the directly commissioned judge advocate and legal specialist. Because the members of the Study Groups will be separated by lots of geography, it is expected that these groups will conduct their work largely by mail. In the interest of thorough study, no deadline or time limit will be imposed on those Study Groups. They will perform with changing membership from their inception until the completion of their assigned tasks. The chairmen of these several groups and their present members are as follows:

Group # 1—Lt. Col. Eli E. Nobleman, USA-Ret., Chairman, with members: James A. Johnson, Atley A. Kitchings, Jr., and Cecil F. Rowe.

Group # 2—Lt. Col. William C. Marsh, USAF, Chairman, with members: Leon Adler, William C. Guthrie, Jr., and Richard J. Pineseault.

Group # 3—Capt. Douglas Metz, USAFR, Chairman with members: Edward R. Finch, Jr., Wilton B. Persons, Jr., and Michael J. Peters.

Group # 4—Col. William L. Shaw, USNG-California, Chairman, with members: Ralph G. Smith and Armand A. Korzenik.

Group # 5—Cdr. Leonard Rose, USNR, Chairman, with members: Penrose L. Albright, Samuel M. Goldberg, Ralph Herrod, Charles J. Mackres, Robert E. Michalski, Leonard Piotrowski, Raymond E. Sutton, Thomas A. Stansbury and John E. Troxel.

Report of TJAG—Navy

Rear Admiral Wilfred Hearn, The Judge Advocate General of the Navy, reported upon the activities of his office during the past year. At the outset, he announced that the Navy had initiated a pilot program in the Norfolk-Newport News area to provide total legal services to the naval commands there located through a Navy Law Center. He stated that many smaller commands have no legal specialists assigned and many larger units have only one or two legal specialists aboard who can provide only limited and minimal legal services; and, yet the variety and complexity of the legal problems arising in these units often call for early legal advice and action of the highest quality. The Navy Law Center with an adequate staff of professional and clerical personnel and complete physical equipment will act as the law firm serving these commands, and will render investigative, reporting, drafting, counseling and reviewing services as well as the provision of

counsel for all stages of courts-martial proceedings. It will provide legal assistance to personnel and will render advice and make recommendations for action to commanders as required. It is anticipated that the pilot program will demonstrate greater economy, efficiency and competence in the providing of legal services than was ever possible under the old system of assigning one lawyer to every unit sufficiently large to warrant it. If this result is achieved, the program will be extended to other areas and perhaps in time to the entire Navy.

On the matter of naval justice and discipline, Admiral Hearn reported that the number of courts-martial convened in the last year was about the same as in past years although there were more GCM's and fewer Special CM's. With the growth of the forces and increase in activity in the Far East, the courts-martial rate will naturally increase—not because of substantial increase of offenses among personnel serving in South East Asia but mostly among personnel in home stations. Because the Navy has fewer assigned lawyers than the other services, the Navy has never required the assignment of lawyer-counsel for defendants in Special Courts-Martial even where the range of impossible punishment might include a BCD. The DOD recommends, and the DON concurs, that defendants should have lawyer-counsel in these cases. Accordingly, the Navy has been trying to

meet this situation on a voluntary basis; and, where personnel are available, have done so. As a result, one-half of those tried by Special CM's who have been sentenced to a BCD and 40% of all others tried by Special CM's have had a lawyer for defense counsel. This has imposed a greater responsibility on TJAG Navy, and points up the greater need for lawyers in the Naval service.

The tort claims business in the Navy has grown tremendously. Recent legislation has required that *all* claims against the United States under the Federal Tort Claims Act shall be submitted for administrative settlement to the Department before suit is filed. Now tort claims may be settled by the government agency involved in sums up to \$25,000 and in even larger amounts with Department of Justice approval. Although the legislation is only three years old, the third party claims procedure by which the United States may recover the value of hospital and medical services provided without cost to servicemen and dependents injured by third persons is growing in importance. Whereas in last fiscal year, the Navy recovered \$800,000 in such claims; in the current fiscal year, these recoveries will exceed \$1,000,000. Also, Admiralty Claims this past fiscal year show that recoveries for the United States exceed payments upon such claims.

The activity of the Navy JAGO in the field of International Law has increased. New status of forces

agreements have been negotiated with the Republic of China (Taiwan) and the Republic of the Philippines. These agreements are similar to the NATO status of forces agreements which have been successful in operation for some years. In recent months, there have been developments in the problems relating to the limits of the territorial seas of great interest to the Navy. The Navy has long contended that "Fish and Sovereignty" are two different matters. However, in the past, the voice of the United States in matters relating to the limits of the territorial seas has been the Department of State and its thinking has been largely influenced by the fishing industry. Even within the fishing industry, there is no single position; some contend for exclusive fishing rights off our own coasts; others want the right to fish off the coasts of foreign countries. Several bills are pending in Congress to define the limits of the territorial seas: one would establish a 12 mile limit; one would extend the territorial seas to the edge of the continental shelf; and, another would establish another arbitrary limit. The Department of State supports the 12 mile limit; but, in hearings, the Navy has been afforded an opportunity of being heard. The Navy has no objection to the establishment of a 12 mile limit from the coastal low water mark for fishing rights so long as there is no interference with the 3 mile limit and sovereignty.

American Bar Association spokesmen have made special point of the fact that there is a shortage of lawyers. This pronouncement is not news to the Navy. The draft brings to the Navy many applications for service from young lawyers for tours of three years active duty in JAG. Almost all of these seek relief from active duty at the end of the obligated tour. If the civilian need for lawyers to provide necessary legal services to the public is ever met by draft exemption to lawyers, the services will be in a critical personnel situation. More and more, the Navy has looked within its own service to meet legal personnel requirements by the commitment of reserve forces to legal billets and an application of the excess leave program for the education of naval officers in the law. Even in the reserve forces where the Navy maintains 44 Reserve Law Companies with an active training program, losses by retirement make continuous replacement from those with *no* military obligation necessary. Last year the Navy required 100 new naval reserve lawyers to meet these losses. During the last year the Navy selected 150 reserve lawyers for direct commissions in JAG with concurrent call to active duty but experience shows less than 10% will remain in service after the expiration of their mandatory period of service. The Navy tries to select officers from those motivated toward career service and the present mandatory tour is for 3 years plus

3 months of indoctrinational training. The current fiscal year requirement will be 100 legal specialists in two increments; the fall class has already been selected and the spring class is now being recruited. Applications are made through local recruiting stations. There is no shortage of applications and preference is given to those who will stay on active duty beyond the minimum obligated tour of active duty.

Report of TJAG—Army

Brigadier General Kenneth J. Hodson, The Deputy Judge Advocate General of the Army, reported for The Judge Advocate General of the Army. In the International Law field, he reported that the NATO type status of forces agreements have worked reasonably well in operation over the years as far as the Army is concerned. Similar status of forces agreements have been negotiated with Taiwan and the Philippines during the past year. A new agreement negotiated with South Korea will be confirmed by that country's legislative body shortly, and limited purpose status of forces agreements are being negotiated with Singapore, Hong Kong and Thailand—all being hosts to our South East Asia troops on rest and recuperation leave. The more serious problem of the services in the international field flows from the United States Supreme Court decision which denied court-martial jurisdiction over civilians accompanying the armed forces

abroad. Foreign governments don't wish to try U. S. citizens for crimes against U. S. citizens and so wives still have an open season on their military service husbands abroad. Legislation to correct this situation is needed.

In the field of Military Affairs, there have been two interesting developments: First, there have been several suits filed in Federal Courts to test the Department of Defense position that the resignations of regular officers will not be accepted during the current Viet Nam build-up. During the Berlin and Cuban emergencies, legislation was obtained extending all periods of service for the duration of those emergencies, but no similar legislation has been obtained to cover the Viet Nam emergency. The outcome of those suits could have a serious personnel effect. The Navy also has several of these suits pending and one of its cases pending in San Diego is likely to be reached for hearing in September or October of this year. Second, the so-called "Reserve Bill of Rights" Act, which specifies the mandatory strength of the reserve forces, prevents the transfer by Defense of reserve appropriations for use by other components, provides that reservists on active duty will serve in their reserve rank or grade and establishes in each service an Assistant Secretary for Reserve Affairs.

As to Military Justice, the Army still seeks legislation to provide for single officer (law officer) courts-

martial and to authorize pre-trial procedures to determine interlocutory matters. Also, the revision of the Manual for Courts Martial has been almost completed and the new revised manual should be published this fall. The Viet Nam build-up has caused an increase in the workload of the Corps. The rate of GCM's has risen by 20% from 100 to 125 cases per month; the Boards of Review are receiving about 100 cases a month, up from 80. The Special Court rate is about 2000 cases per month, but Summary Courts have slacked off to about 1500 cases a month. Currently there are about 33,000 Article 15 proceedings per month and less than 1% of them demand trial. The increase in court-martial incidence, although the result of the build-up in forces, is almost entirely in home stations and few cases arise in Viet Nam.

In fiscal year 1966, JA strength was increased only slightly, but in the current fiscal year, the Viet Nam build-up will require the increase in strength from 1100 to 1300. The rate of reassignment and transfer of JA personnel was about 20% in fiscal year 1966 and will continue high in the current year. In April 1965, there were 3 JA's in Viet Nam; there are now 57 and 20 more are on orders. In the matter of procurement of legal personnel, the Army is enjoying a "buyers' market". Presently there are 1500 applications for 200 vacancies. Priority is given to ROTC graduates and those who have had basic mili-

tary training and prior military service. The obligated tour of active duty for newly commissioned Army JA's is four years. Law students may apply for commissions in JAGC with concurrent call to active duty in their final year of law school studies.

During the last three years, the career officer strength of JAGC has increased from 520 to 640, so that now 60% of the officers on duty are regulars or career reservists, and this increase has come about despite heavy losses of World War II officers by retirement. The greatest contribution to the improved personnel condition has come to the Army through its excess leave program started in 1962. Under the program, distinguished military graduates from ROTC and Regular Army officers with two to four years of service are granted leave without pay to go to law school at their own expense to qualify for service with JAGC. These officers are called to duty on all holidays and school summer recesses for on-the-job training in JA offices, and those with prior military service, qualify for Veterans Administration, G. I. Bill of Rights benefits—all qualify for some benefits in their final year in law school. Many can earn \$3,000 to \$4,000 a year while in law school. These officers have a mandatory commitment for service in JAG for 4½ years after graduation from law school and admission to a bar; but, being already career motivated, they are apt to remain in the service much longer.

Since 1963, 169 lawyer officers have been secured through the program; about 20% have had prior military service; there are 140 officers in the program at this time.

Report of TJAG—Air Force

Brigadier General Martin Menter, The Judge Advocate of the Air Defense Command, reported for The Judge Advocate General of the Air Force.

General Menter reported that as of June 30, 1966, TJAG of the Air Force had 1229 JA's assigned—only 7 below authorized strength. Of the assigned personnel, 54% were regulars, 15% career reservists and 31% were officers performing obligated tours. Personnel losses require acquisition of about 150 new officers a year. These available spaces are filled principally from ROTC graduates who deferred entry on active duty to complete law education, although 5 to 10 old reserve JA's come on extended active duty each year. In fiscal 1966, 1300 young lawyers applied for the 140 available spaces. In fiscal 1967, there are fewer available spaces and about the same ratio of applications to spaces. Naturally, the draft and Viet Nam have induced the superabundance of applications for JA commissions with concurrent call to active duty. Selections are made from applicants on a best qualified basis by a Board of Senior Officers sitting at Continental Air Command at Randolph AFB. The closing date for applications for the next board is November 14,

1966. Retention of JA officers on extended active duty among the obligated tour lawyers is the big problem. Only 14.5% remain in service on a career basis. To encourage JA officers to stay on active duty, they are considered for promotion to Captain after only 18 months' service; and, to selected officers, a Regular commission is tendered without the necessity of the officer making application. In reserve, there are 2278 Judge Advocate officers, of whom 611 are mobilization assignees and the rest are in the stand-by reserve. There are 562 reserve officers on extended active duty.

There has been a continuing decline in the incidence of courts martial. In 1959, there were 31.3 courts martial per 1,000 Air Force personnel; in 1965, there were only 4.8 per 1,000. In 1959, there were 24,000 GCM trials; in 1965, only 5,000. The reasons for this decline in the rate of courts martial has been the simplification of discharge procedures to administratively separate persons who fail to meet minimal standards, and the amendments to Article 15 making non-judicial punishment more versatile. The MCM is being updated and a first revised draft is now ready. It is expected that a new revised MCM will be published by year end. The Meranda Case imposes a new burden on JA's in that now in all Article 31 cases, the accused must be advised of his right to counsel and his right not to be questioned at all if he

doesn't wish it. The record of trial must show this new compliance.

The workload of civil law matters has greatly increased during the past year. Claims in the "sonic boom" cases have grown in numbers, amount and complexity.

Report of COMA

Mr. Alfred Proulx, Clerk of the United States Court of Military Appeals, reported that the Court is current in its calendar with a static workload of from 800-900 cases received each year. He announced that Chief Judge Robert E. Quinn had been reappointed for a new 15 year term.

Newly Elected Officers

The Executive Secretary of the Association made the customary reports on membership and finances, and then read the report of the tellers of the election. This report revealed that the following had been elected for the ensuing year to serve in the offices indicated:

President:

Col. Daniel J. Andersen,
USAFR, Woodward Building,
Washington, D. C. 20005

First Vice President:

Col. Glenn E. Baird, USAR,
209 South LaSalle Street, Chi-
cago, Illinois 60604

Second Vice President:

Capt. Hugh H. Howell, Jr.,
USNR, 508 Mark Building, At-
lanta, Georgia 30303

Secretary:

Captain Ziegel W. Neff, USNR,
9424 Locust Hill Road, Bethesda,
Maryland 20014

Treasurer:

Col. Clifford A. Sheldon,
USAF-Ret., 910 17th Street,
N. W., Washington, D. C.
20006

ABA Delegate:

Col. John Ritchie, III, USAR-
Ret., 357 Chicago Avenue, Chi-
cago, Illinois 60611

Board of Directors:

Maj. Gen. Charles L. Decker,
USA-Ret., Georgetown Law
Center, National Legal Aid
and Defender Association 412
Fifth Street, N. W., Washing-
ton, D. C. 20001

Senator Ralph W. Yarborough,
USAR-Ret., 460 Senate Office
Building, Washington, D. C.
20510

Maj. Gen. Ernest M. Brannon,
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field, Virginia 22151

Col. Alexander Pirnie, USAR-
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Washington, D. C. 20510

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Rockville, Maryland 20854

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USAR, JAGO, Department of
the Army, Washington, D. C.
20310

Rear Adm. William C. Mott,
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20004

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Maj. Gen. Moody R. Tidwell,
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Place, N. W., Washington,
D. C. 20016

Brig. Gen. James S. Cheney,
USAF, 2411 N. Quincy Street,
Arlington, Virginia 22207

Capt. Michael F. Noone, Jr.,
USAF, 2000 38th Street, S. E.,
Washington, D. C. 20020

Col. Joseph F. O'Connell, Jr.,
USAR, 31 Milk Street, Boston,
Massachusetts

The Annual Dinner

The members of the Association, their ladies and guests, in number about 170, met in the Officers Lounge of the Black Watch Armory for liquid refreshments and conversation at 6:30 p.m. as the guests of Brigadier Lawson, The Judge

Advocate of the Canadian Forces. At 7:30 p.m., the entire company went to the Great Hall for dinner at which time the head table was piped down to their places. Cdr. Albright presided. The invocation was given by Col. Cunningham of the Canadian Chaplains Corps. The ceremonies included toasts to the Queen and to The President of the United States, the piping in of the haggis and a toast to the pipers. Colonel Hutchison, the war-time commander of the Black Watch gave a brief history of the regiment and its armory and introduced the guest speaker, Brigadier Lawson, who spoke on the unification of the services with special application to Judge Advocates.



NEW DIRECTORY OF MEMBERS

A new directory of members will be prepared as soon as possible after the first of January 1967. It is important that as many of our members as possible be listed and correctly listed. This involves two duties upon members: be in good standing by paying current dues, and make certain the Association has your correct address including ZIP number. You appear on the Association's rolls with address as indicated on the envelope bringing you this issue of the Journal. Make certain it is right; and, if not, let us know what your correct address is.

OAR OF THE ADMIRALTY PRESENTED TO ADMIRAL HEARN

At a meeting of D.C. members of the Judge Advocates Association on 29 April 1966, members of the Association, Commanders Leonard Rose and Thomas Stansbury, representing the Admiralty and Maritime Law Section of the Illinois State Bar Association, presented to Admiral Wilfred Hearn, The Judge Advocate General of the Navy, a symbolic Oar of the Admiralty fashioned from wood taken from the USS Constitution.

The first Admiralty Court in England was established about 1360 under the authority of the Lord High Admiral. As guardian of public and private rights at sea and in ports, he was commissioned by the Crown to investigate, report on, and redress maritime grievances. The symbol of authority by which the Admiralty Court's officers could be identified while in the performance of their duties was the Silver Oar. Historical references clearly indicate that the Silver Oar as the symbol of authority of the Admiralty Court antedates the 16th century and may have been used even from the inception of the Court.

The Vice Admiralty Courts of the Crown Colonies also used this traditional symbol of authority, and in early America, the Courts in New York, Philadelphia, Providence and Boston each had its Silver Oar from the Crown. This tradition has

been preserved to the present day in some of the United States District Courts sitting in our east coast port cities.

With the opening of the St. Lawrence Seaway, Chicago became a major seaport; and, accordingly, the United States District Court sitting in Chicago became a more important seat of admiralty jurisdiction. In recognition of these facts and in keeping with tradition, the Admiralty and Maritime Law Section of the Illinois State Bar Association determined to secure for its Admiralty Court in Chicago an appropriate Oar of the Admiralty and through the efforts of JAA members, Commanders Rose and Stansbury of the Chicago bar, and the cooperation of officers of the Office of The Judge Advocate General of the Navy, wood from the USS Constitution was made available from which to fashion the symbolic oar. An exquisite Oar of the Admiralty made from the stout oak of "Old Ironsides" was formally presented to The Honorable William J. Campbell, Chief Judge of the United States District Court in Chicago on February 12, 1965, and that beautiful and historical symbol of the admiralty jurisdiction is now prominently displayed in the ceremonial courtroom of that court in Chicago.

In appreciation for the assistance of The Judge Advocate General of



Cdr. Stansbury Presents Oar to Adm. Hearn

the Navy to their project, and as a recognition of his own admiralty jurisdiction, Commanders Rose and Stansbury, for the Illinois State Bar Association, presented a half-size replica of that Oar of the Admiralty cut from the same historic wood to Admiral Hearn on the occasion of the Judge Advocates Association luncheon on April 29th.

Admiral Hearn made the following response upon the occasion of this presentation:

I am deeply honored to accept this handsome Oar of the Admiralty on behalf of the Office of the Judge Advocate General of the Navy. The Admiralty Oar has been symbolic of the rule of law among seafarers for many centuries. I assure you that we have great affection for this tradition of the sea as well as all of the traditions which reflect the affairs of the seafarers of the past. For it is the practices and customs of the past that have molded and refined maritime common law of the present and as the years turn into decades, will continue to guide the development of all maritime law.

I accept this replica of the Admiralty Oar as a deserving recognition of the important contribution the Admiralty Division of the Office of the Judge Advocate General makes to the practice of admiralty law throughout the United States, and in recognition of the fact that over the years it has represented faith-

fully and well the greatest maritime client the world has ever known—the United States Navy.

I accept this Oar in recognition of the substantial part this Division has played in recent years in working in the international field in areas which are of vital concern to those who use the sea and to those who by profession are concerned with the rights and responsibilities of those who use the sea. I refer particularly to the formulation of such international conventions as the International Rules of the Road, Safety of Life at Sea, and the Load-line Convention, among others.

With due regard to the symbolic character of this Oar we are also aware that it represents what was once an important means of propulsion. And as our mind's eye moves forward in history from this point of beginning we see sail, then steam, fueled by wood, then coal, and oil, and today the advent of atomic power. We see wooden ships change to steel hulls, the development of the submarine, and today's advance thinking and experimentation in terms of hydrofoils and ground effect machines.

Each of these steps in maritime history has in a sense been a breakthrough which enabled mankind to make greater use of the sea as a means of communication and as a source of food.

We have learned much about the surface of the sea but little else.

We know that salt water covers 71% of our planet, that 88% of the oceans are 12,000 feet or deeper, that the bottom slopes rapidly at the edge of the continental shelf, falling precipitously from 600 to 12,000 feet and then breaks more gently to the ocean floor to depths up to 36,000 feet.

Contrast with the magnitude of these depths the fact that we are able to operate today only within the first few hundred feet and it is apparent that to date man has been comparatively unsuccessful in conquering and subjecting to his use the ocean depths. Man still measures his conquest of the subsurface of the sea in terms of feet when he is confronted with miles.

Yet today we are on the threshold of another breakthrough. The development of a new dimension of the sea—the exploitation of its newly discovered natural resources. Technological advances within the past few years have brought within the reach of man the vast mineral, chemical, and vegetable resources to be found in sea water, and on the seabed, as well as the minerals of the subsoil of the ocean bottoms.

Diamonds are being mined profitably off the coast of South Africa—gold is being sought off the coast of Alaska. Oil and gas are being extracted from many off-shore locations. Some twenty-odd companies spent \$300,000,000 in 1965 in search for gas and oil in the North Sea.

With respect to U. S. continental shelf oil resources, a 1965 Senate report stated that since 1960 approximately \$800 million has been paid into the Federal Treasury by industry from the lease of offshore oil rights.

The economic worth of worldwide ocean engineering and oceanographic activities in 1963 has been estimated at 10 billion dollars and increasing at an annual rate of about 15%.

The magnitude of this worldwide activity in exploiting the untold wealth of the sea may well have outstripped the development of the law to insure an orderly regime of oceanography.

Do we extend the doctrine of freedom of the seas down? Do we extend the continental shelf doctrine out? Do we treat the area as a no-man's-land or as the common property of all nations? Or do we do a little of both? The answers are yet to come.

The thrust to maximize the exploitation of the wealth of this new frontier, and the thrust to capitalize on advances in naval and maritime science in the furtherance of security interests, may well become competing forces not only in our own country but in the international arena.

If such is the case, as appears likely, there will come about through practice, policy decisions, and international agreements an ac-

commodation between the right to exploit the riches of the sea on the one hand, and the doctrine of freedom of the seas in the traditional sense on the other hand.

New law will develop. It will be in part the application of old principles to a new situation, and per-

haps in part a departure from old principles.

This new legal frontier taxes the imagination of those in the profession who have an interest in maritime law. Perhaps you will make a substantial contribution to its development.

NAVY MEMBERSHIPS IN JAA INCREASE

Naval reservists lead in the number of new memberships for 1966. Thirty-six officers of the Naval reserve became members of JAA in 1966. Next in number of new members was the Army reserve with 34. In the regular active duty category, the Air Force leads with 26

new members. In total, the Association has gained 134 new members so far this year. Significantly, the Navy, Marine Corps—Coast Guard new memberships represent a 34% increase over the membership of that group in good standing in 1965.

PROFILE OF JAA MEMBERSHIP

A recent questionnaire sent to the members of JAA developed these facts concerning the membership. By current or prior service, the Army leads with 68% of the overall membership, followed by the Air Force with 21% and the Navy, Marine Corps and Coast Guard with 11%. New York leads the states in JAA members with 198, followed by California with 189 and the District of Columbia with 133.

About 20% of the membership are practicing law in uniform with Uncle Sam as client, another 55% are engaged in the private general practice of law, about 1% specialize

in the patent field, about 5% are judges, about 7% are lawyers in state or federal civil service, 2% are corporate attorneys and an equal number are corporate officers, 2% are law school deans or professors and another 2% are retired from all activities. The other 4% are listed as State Governor, U. S. Senators, U. S. Congressmen, bar association executive staff personnel, businessmen in the insurance field, and cattleman. Only one reports unemployment. The members of JAA are all busy people, doing important work, all over the nation and the world, making their contribution to the history of our times.

CONSCIENTIOUS OBJECTION

By William L. Shaw*

Between the years 1940-1947, 50,000,000 citizens and aliens in the United States were registered for military or civilian service.¹ Of this great number, 10,000,000 were inducted into the Armed Forces of the United States.²

The performance of a compulsory military obligation did not begin in 1940 in America. Since the earliest colonial times, military service has been required of American men. For example, the General Assembly of Virginia on March 5, 1623, adopted an Act requiring all "inhabitants" to go "under arms".³ An Act of 1629 gave the "commander of plantations . . . power to levy parties of men (and) employ (them) against the Indians".⁴

George Washington stated:

"Every citizen who enjoys the protection of a free government, owes not only a portion of his property, but even of his personal services to the defense of it."⁵

However, since the colonial period, an exemption from military service has been allowed by law to men who can prove their conscientious objection not merely to war, but to the training in arms received by soldiers. An Act of 1684, by the New York General Assembly, excused those men "pretending tender conscience" who had to furnish a man to serve in their stead or to pay fines.⁶

During the War for Independence, nine of the thirteen colonies drafted men to meet the quotas

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¹ Selective Service System, Monograph No. 17 (The Operation of Selective Service) p. 4 (1955).

² Ibid.

³ Selective Service System, Monograph No. 1 (Military Obligation: The American Tradition) vol. II, part 14, No. 369, Virginia (1947).

⁴ Ibid, No. 371, Virginia.

⁵ Graham, *Universal Military Training in Modern History*, 241 Annals 8 (1945).

⁶ Selective Service System, Monograph No. 1 (The American Tradition, New York Enactments), vol. II, part 9 (1949).

called for by the Continental Congress. Each of the nine states allowed an exemption to the members of certain religious sects, such as the Quakers.⁷

During the Civil War, both the Union and the Confederate Armies exempted conscientious objectors (hereinafter termed COs). In February, 1864, the Union by statute exempted members of recognized religious sects who would swear they were conscientiously opposed to bearing arms and were forbidden to bear arms by rules of their faiths. Such men were considered noncombatants and were assigned to hospitals or to the care of freed men, and, in addition, had to pay \$300.00 for the benefit of the sick.⁸

In the Confederacy, the records exist for 515 men exempted in Virginia, North Carolina and East Tennessee.⁹

The Selective Service Law of 1917 exempted COs. There were 3,989 such objectors out of 2,800,000 inducted into the Army, or a percentage of .0014%.¹⁰

⁷ Buehler, *Compulsory Military Service*, Debaters' Help Book, vol. VIII, p. 8 (1941). Also see Duggan, *Legislative and Statutory Development of Federal Concept of Conscription for Military Service* 3-9 (1946).

⁸ 13 Statutes 487 (United States Congress) Act of 24 February 1864.

⁹ *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, Series IV, vol. 3, p. 1103 (1880-1903).

¹⁰ Wright, *Conscientious Objectors in the Civil War*, 244 (1931).

¹¹ 54 Statutes 885, Act of September 16, 1940. See Shaw, (Selective Service: A Source of Military Manpower) *Military Law Review*, July 1961, p. 51-54: Dept. of Army Publication 27-100-13 (hereafter termed Manpower).

¹² 62 Statutes 609 (1948) as amended 50 U.S.C. App. #451-473.

¹³ Manpower, op. cit., supra, note 11, at p. 61.

The 1940 Selective Service Law likewise exempted COs and considerable litigation resulted which assisted to clarify who were COs and who were "ministers of religion."¹¹

The 1948 Selective Service Act in Section 6(j) provides that it shall not require:

"any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code."¹²

Congress has deemed it more vital to respect the religious beliefs of a CO rather than to compel him to serve in the Armed Forces.¹³

However, the CO must perform directed service in civilian work which contributes to the maintenance of the national health, safety or interest for a period of about 21 months.¹⁴ Many COs are assigned to work in local hospitals or with community charitable or religious organizations. This is strictly civilian activity and is *not* military.

The local Selective Service Boards carefully consider claims by COs for exemption. The case of a CO is investigated by the Federal Department of Justice which holds a hearing and returns recommendations to the local boards.¹⁵ Generally, a local board then follows the recommendation of the Justice Department.¹⁶

There are several classes of COs under the present law which include the following:

- I-A-O: Conscientious objector available for noncombatant military service only.¹⁷
- I-O: Conscientious objector available for civilian

work contributing to the maintenance of the national health, safety, or interest.¹⁸

- I-W: Conscientious objector performing civilian work contributing to the maintenance of the national health, safety, or interest.¹⁹

There is a lack of uniformity among COs as to the nature of their objections. A I-A-O registrant will perform noncombatant military service, such as serving in the Army Medical Corps. On the other hand, the I-O registrant refuses to have anything to do with the military, and if his claim is allowed, he must perform civilian service.

In order to assist his local board, a CO files a special questionnaire form entitled "Special Form for Conscientious Objector".²⁰

It is an unfortunate fact that many registrants who are denied exemption as COs refuse to accept induction into the military or even decline to be in Class I-A-O. Such

¹⁴ Regulations of Selective Service System, National Headquarters, Washington, D.C. (hereafter termed Regs.) 1622.16, pp. 1622-9.10.

¹⁵ Act of 1948, 62 Statutes 609, as amended: Section 6,j.

¹⁶ *MacMurray vs. United States*, 330 Fed. (2) 928 (9th Circuit 1964) discussing the omission of the Justice Dept. to advise a local board on a referral to the Dept.

¹⁷ Reg. 1622.11, p. 1622-6.

¹⁸ Reg. 1622.14, p. 1622-9.

¹⁹ Op. cit., supra, note 14.

²⁰ Forms Table, Selective Service System, Form #150; Reg. 1606.51(a) p. 1606-7.

men are regarded as delinquents, and are subject to prosecution in the federal courts by the United States Attorneys.²¹ Thus, in World War II, a total of 1600 COs failed to report for civilian work for the national interest. These men had been allowed exemption as COs, but, as stated, would do nothing even of a civilian nature. Many were imprisoned as a result.²²

In the present statute of 1948, as amended, it is required that the CO have a belief in a Supreme Being to support his conscientious objection.²³ In 1964-1965, the United States Supreme Court considered the "Supreme Being" issue and upheld this requirement.²⁴ It had been urged to the court that the Supreme Being notion violated the First Amendment of the Constitution which prohibits the establishment of a religion.²⁵

In *United States vs. Peter*, a registrant had been convicted for failing to submit to induction into the military. Peter was not a member

of any religious faith, and told his local board he believed in "some power manifest in nature . . . the supreme expression". The Supreme Court held that this was equal to a belief in a Supreme Being or God.²⁶

Conscientious Objector litigation is costly to the federal government.²⁷ More cases involve alleged COs and ministers than arise in any other phase of Selective Service.²⁸ At first glance, one might conclude that the result to the government is not worth the effort and expense of resisting ill-founded claims to exemption under the Act in these classifications. For the very reason that we now are in a period of comparative peace, however, it becomes necessary to scan closely all claims for exemption from military service. Otherwise, in time of war or great national emergency, the machinery of Selective Service might not adjust quickly to increased numbers of exemption claims as military service

²¹ Selective Service System, Monograph No. 17 (The Operations of Selective Service) p. 24 (1955).

²² *Ibid.*, at p. 88.

²³ 62 Statutes 609, Section 6(j).

²⁴ *United States vs. Seeger*, 380 U.S. 163 (March 8, 1965); *United States vs. Peter*, 380 U.S. 163 (1965); *United States vs. Jakobson*, 380 U.S. 163 (1965).

²⁵ 33 U.S. Law Week 3185, November 24, 1964.

²⁶ *United States vs. Peter*, 380 U.S. 163 at p. 188.

²⁷ Shaw, Selective Service Litigation Since 1960, 23 *Military Law Review*, 115 (January 1964) Dept. Army Pub. 27-100-23.

²⁸ *Ibid.*

would come closer to the ordinary man. It should be borne in mind that from the earliest colonial beginnings of America, it has been the practice over the years to allow an exemption from the military obligation to men whose consciences are obstructed by the necessity to undertake military service.²⁹

An indication of the successful operation of the Selective Service Act is the careful consideration extended to all claimants for exemption even where the purpose to avoid military service may seem unreasonable.

As it is not easy to prove a personal belief in conscientious objection, the local board may consider many elements of the registrant's character and conduct. The law places the "burden" upon the registrant to prove that he is in fact a CO.³⁰ The local board will consider such items as:³¹

1. Time spent in religious activities.
2. Family background.
3. Any bad conduct as a youth.

4. The testimony of his church ministers and others.
5. Any former membership in military organizations.
6. Interest in pugilism and wrestling.
7. Fondness for hunting wild game.
8. Age when belief in conscientious objection first developed.

For example, there was a Colorado case where the alleged CO was proved to have been the welter-weight boxing champion in his college class.³² Another claimant had been arrested for a shooting affray!³³ Still another claimant was disqualified because of a long record of arrests.³⁴ In the case of *United States vs. Porter*, a conviction was affirmed against a man who had been registered at 18 years of age in 1960. On August 1, 1960 he was ordered to report for induction on August 9, 1960. He first made claim to being a CO on August 8, 1960.³⁵

Unfortunately, at the present time we read that some ill-advised youths announce that they will

²⁹ Op. cit., supra, notes 6 and 7.

³⁰ *United States vs. Palmer*, 223 Fed. (2) 893 (3d Circuit 1955) (Certiorari denied by Supreme Court, 350 U.S. 873).

³¹ Manpower, op. cit., supra, note 12, p. 62.

³² Selective Service Section, Office of Adjutant General, Training Records (1950).

³³ Ibid, year 1951.

³⁴ Ibid, year 1953.

³⁵ 314 Fed. (2) 833 (7th Circuit 1963).

claim to be COs in order that they may "escape" military service.³⁶ Perhaps, even a few such men might actually avoid military or civilian service. Probably, they will find it more difficult than they first expect. The Federal Department of Justice would seem equal to the task of investigating alleged COs, and then making recommendations to the local boards.

We know that there are genuine COs. For instance, the denomination of Quakers who trace back to the 17th Century have always been averse to military service.³⁷ However, all Quaker young men do not claim to be COs, and there have been men who although Quakers have performed military service.³⁸ Among the more orthodox faiths, an occasional CO appears although

the faith itself has no position against military training.

In conclusion, as stated, above, it may be the better American way to allow bona fide COs to avoid military service rather than to force such men into the military where they would have a very doubtful value. The following was stated in *United States vs. Beaver*³⁹ by a dissenting judge to a conviction of an alleged CO:

"The statute gives this man exemption, the Army does not want him, the jail will not change his religious beliefs, nor will the will of the people to fight for their country be sapped by a generous adherence to the philosophy behind this law."⁴⁰

William L. Shaw

³⁶ *New York Times*, November 3, 1965: *Sacramento Union*, October 1, 1965.

³⁷ Discussed in the court decision in *United States vs. Peter*, 380 U.S. 163 at pp. 175, 187 and 192.

³⁸ For example, former Vice-President Richard Nixon.

³⁹ *United States vs. Beaver*, 309 Fed. (2) 273 (4th Circuit 1962).

⁴⁰ *Ibid* at p. 279.

In Memoriam

Since the last publication of the Journal, the Association has been advised of the death of the following members:

Lt. Cdr. Gene R. Arnold, Maryland; Lt. Col. Robert E. Bachman, California; Lt. Cdr. Harold M. Baron, Ohio; Lt. Col. Harold R. Brophy, New York; Cdr. Walter F. Brown, Virginia; Major Harold Chase, Virginia; Major General Myron C. Cramer, District of Columbia; Col. W. Howard Dilks, Jr., Pennsylvania; Capt. John D. Fischbeck, New Jersey; Lt. Col. George J. Ginsberg, Louisiana; Col. Samuel Green, New Hampshire; Major Donald C. Helling, USAF in Europe; Col. W. Sumner Holbrook, Jr., California; Col. Arthur F. Hurley, Florida; Lt. Deloss C. Hyde, USN; Lt. Col. Bernard M. Jones, Mississippi; Col. Albert G. Kulp, Oklahoma; Col. Loren H. Laughlin, Maryland; Col. James S. Lester, Kansas; Col. Harry L. Logan, Jr., Texas; Col. Noah L. Lord, New York; Lt. Col. Charles R. Mabee, Missouri; Col. Stewart S. Maxey, Illinois; Col. Philip J. McCook, New York; Brigadier General Edwin C. McNeil, District of Columbia; Lt. Col. J. C. Neveleff, USAF; Col. Guy Nichols, Mississippi; Col. Joseph F. O'Connell, Jr., Massachusetts; Major Joseph D. Ripp, Pennsylvania; Brigadier General Franklin Riter, Utah; Col. Jay W. Scovel, Kansas; Cdr. Eulan I. Snyder, District of Columbia; Lt. Col. Arthur E. Spencer, Jr., Missouri; Major Charles J. Spinelli, Pennsylvania; Col. Thomas R. Taggart, Colorado; Col. Neil Tolman, New Hampshire; Cdr. Ralph W. Wilkins, Ohio; Lt. Ernest Wunsch, Michigan.

The members of the Judge Advocates Association profoundly regret the passing of their fellow members and extend to their surviving families, relatives and friends, deepest sympathy.

Book Review

The Air Code of The U. S. S. R. By Denis A. Cooper. Charlottesville, Virginia: The Michie Company. 1965. \$15.00. Reviewed by Lt. Col. Timothy G. O'Shea, USAF, member of the District of Columbia bar.

Prompted by a recent summary in the Journal of Air Law and Commerce to investigate Dr. Cooper's annotation of *The Air Code of the U.S.S.R.*, this writer was richly rewarded by the comprehensive coverage accorded the subject in an understandable, comparative and concise analysis of the recently enacted Soviet Air Code. Considering the paucity of authoritative English language materials available on the subject, Dr. Cooper's offering is truly a contribution to English speaking world literature in this area, for the concept of peaceful co-existence cannot conceivably be achieved in technical areas unless one is conversant with the technical terms of reference as well as legal theory employed by the Soviets.

The subject is of further importance when one considers that Soviet aligned or satellite countries must be expected to reflect Soviet concepts in their own enactments. With our present national policy clearly pointed to closer trade with the Eastern block, a knowledge of Soviet view on passenger and air cargo transportation, as well as claims and liabilities, departs from

the area of conjecture and demands an informed Western aircraft industry and international control operations, as well as U.S. Government awareness of the prevailing state concept under which the Soviet carriers operate. So long as we must operate adjacent to and compatible with Soviet air space concepts, to wit: in areas like Berlin and satellite countries, it behooves our civil and military aviation and legal experts to develop an expertise capable of negotiations with Soviet authorities in their own terms. Dr. Cooper's book provides a working basis for such negotiations.

This is not solely a book for the future, for in 1961 the United States Government entered into negotiations for a bilateral aviation agreement with the Soviet Union, and interested Government agencies undertook ultimate inception of two-way commercial air traffic between the United States and the U.S.S.R.

It was apparent that the then current Soviet Air Code was, (because of the inherent linguistic and technological difficulties), inaccessible to the drafters of the proposed

agreement. The quality of the English translations of the Soviet Air Code that emerged from the various Government translation services testified to the need for an aviation lawyer competent not only in American and international aviation law but also in Soviet law.

This competency was supplied, as is often the case, by the United States Air Force. When called upon, its Judge Advocate General's Department produced Colonel (then Major) Cooper who was on loan to the FAA legal staff. Throughout the negotiation stage, Colonel Cooper provided legal counsel on the terminology and meaning of the Soviet Air Code and civil law provisions, which the American drafters of the proposed agreement had to take into consideration. From his able counsel and advice emerged not only an agreement, which was ultimately accepted by the U.S.S.R., but also this book which now takes its place as one of the few worthwhile books on Soviet law written in recent years. Colonel Cooper's painstaking translation and annotation of the Soviet Air Code is far and away a most interesting one, if for no other reason than that it constitutes a first in the English language and, for that matter, any other Western language. For this reason alone it is likely to be read

by students of Soviet law, in general, and particularly those concerned with aviation law.

The Air Code text is preceded by a brief but succinct study which covers the major aspects of Soviet aviation law, as well as pertinent principles of Soviet constitutional and civil law. The Air Code text itself is accompanied by annotations on comparative American law, where useful, on pertinent international law or specific international agreements in force.

It is to be regretted that, as the author points out, the Soviet aviation authorities refused to furnish the undoubtedly existing regulations which implement the Soviet Air Code. Such cooperation would have been of immense value not only to the 47 Nations which have effective bilateral aviation agreements with the U.S.S.R., but also the Soviet aviation authorities themselves which must deal with the operating airlines of these nations and make intelligible the Soviet rules under which the airlines must work. An easily understandable English handbook, as is Colonel Cooper's, might have helped bridge many misunderstandings by those who are not fluent in the Russian language, or conversant with Soviet law. Its pertinency to the military legal profession seems patent.



L. A. MEMBERS ORGANIZE JAA CHAPTER

Under the leadership of JAA members in Los Angeles, the John P. Oliver Chapter of the Judge Advocates Association was organized this year to provide activities, interest and fellowship for judge advocate officers of all components of the Armed Forces resident in Southern California. Prime movers in the founding of the Chapter were Lt. Col. Edward L. McLarty, Lt. Col. David I. Lippert, Col. John F. Aiso and Lt. Col. Mitchell A. Zitlin. The Chapter gets its name from the late Col. John P. Oliver, a charter member of JAA, who had a long and distinguished career as a judge advocate in the Army Reserve and as a lawyer and judicial officer in California. Col. Oliver was an active protagonist of the reserve officer in the decade following World War II and in 1949 was awarded this Association's Award of Merit.

Since the establishment of the Chapter in April 1966, it has placed on its rolls 43 members and added to the rolls of JAA 36 new members. The present membership includes:

Col. John F. Aiso, Los Angeles
Capt. Willedd Andrews,
Los Angeles
Lt. Col. Erich Auerbach,
Los Angeles
Charles G. Bakaly, Jr., Los Angeles
Col. James P. Brice, Los Angeles
Lt. Col. Sumner A. Brown,
Norton AFB

Major Edgar R. Carver, Jr.,
Los Angeles
Maj. Herschel E. Champlin,
Los Angeles
Maj. S. M. Dana, Los Angeles
Capt. Donald J. Drew, Los Angeles
Maj. Robert W. Dubeau,
San Gabriel
Col. Joseph H. Edgar, Los Angeles
Capt. Gary B. Fleischman,
Los Angeles
Capt. David W. Fleming,
Los Angeles
Maj. Albert S. Friedlander,
Sherman Oaks
Maj. Philip G. Gallant, Van Nuys
Capt. Joseph M. Giden, Los Angeles
Lt. Col. Milnor E. Gleaves,
Los Angeles
Lt. Col. Irving H. Green,
Beverly Hills
Maj. Marvin Greene, Los Angeles
Lt. Col. David W. Halpin, Encino
Maj. Clarence L. Hancock,
South Pasadena
Lt. Col. Harold E. Heinly,
Santa Ana
Capt. Guy C. Hunt, Pasadena
Lt. Col. Rufus W. Johnson,
San Bernardino
Maj. Arthur T. Jones, Glendale
Maj. Arthur Karma, Los Angeles
Lt. Col. David I. Lippert,
Los Angeles
Lt. Col. Edward L. McLarty,
Los Angeles

CWO George W. Miley, Hollywood
Capt. Charles E. Morrey,
Los Angeles

Lt. Col. William H. Peterson,
Altadena

Maj. Richard L. Riemer, Santa Ana

Maj. Herbert S. Ross, Los Angeles

Lt. Col. Thomas B. Sawyer,
San Pedro

Capt. Gerald Sokoloff, Fullerton

Col. Joseph J. Stern, Los Angeles

Col. Robert E. Walker, Los Angeles

Maj. Andrew J. Weisz,
Beverly Hills

Col. Harold E. White, Van Nuys

Maj. Jess Whitehill, Los Angeles

Lt. Rufus Calhoun Young, Coronado

Lt. Col. Mitchell A. Zitlin,
Los Angeles

The officers of the John P. Oliver Chapter are: Lt. Col. Edward L. McLarty, President; Lt. Col. David I. Lippert, First Vice President; Col. Robert E. Walker, Second Vice President; Major Jess Whitehill, Third Vice President; and, Lt. Col. Mitchell Zitlin, Secretary-Treasurer.

The chapter plans to hold quarterly meetings and annual statewide functions coincident with the California State Bar Conventions. The first annual meeting, to which all judge advocates of all services and components were invited, was held on September 20th, 1966 at the Disneyland Hotel.



JAA's STATE CHAIRMEN NAMED FOR 1966-67

The president of the Association, Colonel Daniel J. Andersen, has named the following members of the Judge Advocates Association as State Chairmen for the ensuing year:

Alabama	Col. William E. Davis, USAR 3419 E. Briarcliffe Road Birmingham, Alabama 35223
Alaska	Capt. John S. Hellenthal, USAR-Ret. Box 941 Anchorage, Alaska 99501
Arizona	Major John V. Fels, USAFR First National Bank Building Phoenix, Arizona 85004
Arkansas	Lt. Col. John Mac. Smith, USAR-Ret. P.O. Box 830 West Memphis, Arkansas 72301
California	Col. Edward L. McLarty, USAR Hall of Justice Los Angeles, California 90012 Col. John H. Finger, USAR 18th Floor, Central Tower San Francisco, California 94103
Colorado	Major Samuel M. Goldberg, USAR-Hon. Ret. 1518 Denver US National Center Denver, Colorado 80202
Connecticut	Col. Morton A. Elsner, USAR 11 Asylum Street Hartford, Connecticut 06103
Delaware	Col. Edward H. Kurth, USA-Ret. 2635 Longwood Drive Wilmington, Delaware 19803
District of Columbia	Major Gen. Richard C. Hagan, USAFR 7009 Bradley Circle Annandale, Virginia 22003
Florida	Lt. Col. Sanford M. Swerdlin, USAFR Seybold Building Miami, Florida 33132

Georgia	Capt. Hugh H. Howell, Jr., USNR 508 Mark Building Atlanta, Georgia 30303
Hawaii	Lt. Col. V. Thomas Rice, USAFR 735 Bishop Street Honolulu, Hawaii 96813
Idaho	Capt. Mark B. Clark, USAFR-Ret. P.O. Box 87 Pocatello, Idaho 83201
Illinois	Capt. Scott Hodes, USAR 1 North LaSalle Street Chicago, Illinois 60602 Lt. Col. William G. Vogt, USAR-Ret. 700 N. Main Street Carrollton, Illinois 62016
Indiana	Cdr. Harry J. Harman, USNR Fidelity Building Indianapolis, Indiana 46204
Iowa	Col. Wendell T. Edson, USAR Storm Lake, Iowa 50588
Kansas	Col. Donald I. Mitchell, USAFR 8501 Tipperary Wichita, Kansas 67206
Kentucky	Col. Walter B. Smith, USAR R 3 - U.S. 60 East Shelbyville, Kentucky 40065
Louisiana	Col. Lansing L. Mitchell, USAR 6027 Hurst Street New Orleans, Louisiana 70118
Maine	Lt. Col. Kenneth Baird, USAR 477 Congress Street Portland, Maine 04111
Maryland	Major Robert H. Williams, Jr., USAR-Ret. 309 Suffolk Road Baltimore, Maryland 21218
Massachusetts	Col. Lenahan O'Connell USAR-Ret. 31 Milk Street Boston, Massachusetts 02110

Michigan	Cdr. Frederick R. Bolton, USNR Buhl Building Detroit, Michigan 48226
Minnesota	Col. John H. Derrick, USA-Ret. 832 Midland Bank Bldg. Minneapolis, Minnesota 55401
Mississippi	Major Cary E. Bufkin, USAR 1045 Monroe Street Jackson, Mississippi 39205
Missouri	Col. Walter W. Dalton, USAFR 906 Olive Street St. Louis, Missouri 63101 Col. Charles Frank Brockus, USAR Home Savings Building Kansas City, Missouri 64106
Montana	Col. Wallace N. Clark, USAF-Ret. 427 W. Pine Street Missoula, Montana 59801
Nebraska	Lt. Gen. Guy N. Henninger, USAFR-Ret. 2054 South Street Lincoln, Nebraska 68502
Nevada	Col. Clel E. Georgetta, USAR-Ret. 10 State Street Reno, Nevada 89505
New Hampshire	Capt. Kenneth F. Graf, USAR-Ret. 40 Stark Street Manchester, New Hampshire 03101
New Jersey	Maj. J. Leonard Hornstein, USAR 921 Bergen Avenue Jersey City, New Jersey 07306
New Mexico	Lt. Col. Pat Sheehan, USAFR P. O. Box 271 Albuquerque, New Mexico 87103
New York	Capt. Robert G. Burke, USNR 420 Lexington Avenue New York, New York 10017 Lt. Col. Harold V. Dempsey, USAR 95 Liberty Street New York, New York 10006

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- Oregon Lt. Col. Adelbert G. Clostermann, USAFR
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Portland, Oregon
- Pennsylvania Major Louis D. Apothaker, USAFR
Park Towne South #1514
Philadelphia, Pennsylvania 19130
- Major Samuel A. Schreckengaust, USAFR-Ret.
2316 Midland Road
Harrisburg, Pennsylvania
- Rhode Island Major Paul D. Heyman, USAFR
2 Thomas Street
Providence, Rhode Island 02903
- South Carolina Col. Norbert A. Theodore, USAFR-Ret.
Palmetto Building
Columbia, South Carolina 29201
- South Dakota Col. Lee H. Cope, USAFR-Ret.
Yankton, South Dakota 57078

Tennessee	Capt. George H. Cate, Jr., USAR Commerce Union Bank Bldg. Nashville, Tennessee 37219 Major Joseph B. Yancey, USAR Cumberland Building Knoxville, Tennessee 37916
Texas	Lt. Jack Pew, Jr., USNR 6140 DeLoache Dallas, Texas Lt. Col. Riley Eugene Fletcher, USAR 109 Skyline Drive Austin, Texas 78746 Major Virgil Howard, USAFR 3150 S. Alameda Street Corpus Christi, Texas 78404 Cdr. Samuel J. Lee, USNR 126 E. Locust Street Angleton, Texas 77515
Utah	Col. Calvin A. Behle, USAR-Ret. 520 Kearns Building Salt Lake City, Utah 84101
Vermont	Col. Charles F. Ryan, USAR-Ret. Rutland, Vermont 05701
Virginia	Major Plato D. Muse, USAFR 28 N 8th Street Richmond, Virginia 23219
Washington	Col. Josef Diamond, USAR Hoge Building Seattle, Washington 98104
West Virginia	Capt. Frederic R. Steele, USAR McCrary Building Fairmont, West Virginia 26554
Wisconsin	Major Walter B. Raushenbush, USAFR University of Wisconsin School of Law Madison, Wisconsin 54306
Wyoming	Col. George F. Guy, USAR-Ret. 1600 Van Lennen Avenue Cheyenne, Wyoming 82001

by Col. Julien Hyer, USAR-Ret.*

“WAR CRIMES!”

What does *that* term mean? To the aging veteran of WW II with a faded European or Pacific ribbon on the breast of his uniform-blouse stored away in the attic-trunk, it stirs a vivid memory. The connotation of the words is still a trifle hazy to him, however. To his grown son or daughter it means a darned good movie that Spencer Tracy made in 1961 called “*Judgment at Nuremberg.*” To his grandchild it has no significance whatever.

But it does to the White House these days! And to the Vatican! And to the U. S. ambassadors around the world who are urging the governments to which they are posted to register protests against the trial of captured American fliers by the Viet Cong and the Communists in Vietnam for war crimes.

After resting in quiet for over a decade the term “War Crimes” is being resurrected by the newspapers and appears in the headlines again. Macbeth is seeing a grim specter in his chair at the feast “shaking its gory locks” menacingly at him.

They are calling *our* boys “war criminals” now and our people want to know just what this means.

Let’s review the history of the subject. In June, 1945, the headquarters of the U. S. Forces, European Theater established a General Board at Bad Nauheim, Germany “to prepare a factual analysis of the strategy, tactics and administration employed by the United States forces in the European Theater.” Various staff sections combed the records, examined the files, reviewed the reports and interviewed the military participants who had not been evacuated home from the European Theater. Then they wrote treatises on from the Beaches-to-Berlin in the drive the various phases of the campaign for Allied victory. One of these studies by the Judge Advocate Section of the Board was on “WAR CRIMES AND PUNISHMENT OF WAR CRIMINALS.”

Thumbing those pages, yellowed now by a decade of aging, we get some perspective on how *we* felt then when we thought that it was our bounden duty to try, convict

* Reprinted by permission of The Military Order of the World Wars from “The World Wars Officers Review” Vol. 5 No. 1 Sept.-Oct. 66, p. 8-12.

The author, Colonel Julien Hyer, USAR-Ret., is a member of JAA. He is District Judge for Dallas County, Texas. He served as a captain in the 36th Division, overseas in WW I and as a colonel in the Judge Advocate General’s Department in Europe in WW II.

and punish those who had committed war crimes against soldiers, civilians, races and ethnic groups. The Allied governments and their armies tried many of these alleged "war criminals." Some were hanged, some were imprisoned for a term of years and some were released after a brief confinement that ended in a rigorous and humiliating trial. We did this entirely by *our* rules, drawn by *our* own experts on International Law and *after* the crimes for which they were accused had been committed. Our best legal minds, military and civilian argued to us and wrote at length in our law reviews and magazines that it was perfectly justified and was done according to due process of law. Some few dissented but they were overruled. As a nation, we "consented unto the death" of many of these charged culprits and set up more courts in Europe and Asia to hale other war criminals to justice.

This, then, was our thinking when we rode the victory wave and no one around the world dared to challenge our triumphant military judgment. "*War crimes are acts that violate the laws and usages of war. War criminals are persons who commit or abet war crimes.*"¹ So we defined them and it stood up. The Responsibilities Commission of

the Paris Conference of 1919 classified 32 offenses as "War Crimes." The United Nations War Crimes Commission adopted the Paris list and added another offense—Indiscriminate Mass Arrests—but that Commission's list was not exclusive. Four nations united at Nurnberg to undertake to punish Germans guilty of atrocities and persecutions on racial, religious or political grounds committed since 30 Jan. 33. These were not all "war crimes." Some were designated "crimes against peace" and "crimes against humanity."

Specifically, the United Nations War Crimes Commission—United States, United Kingdom, Soviet Union and French Republic—and not to be confused with our present UN, charged Germans with murder, ill treatment of prisoners of war and cruelty toward civilian nationals of occupied countries. The following were the offenses allegedly committed against civilian populations: deportation for slave labor, plunder of property, unlawful exaction of penalties, wanton destruction of cities, towns and villages in military operations, conscription of labor out of proportion to the needs of the occupying army as well as the resources of the countries involved and the unlawful Germanization of occupied territories.²

¹ These abbreviated definitions are from CC/s 9705, 2 Oct. 44, Subj. "*Obligations of Theater Commanders in Relation to War Crimes*"; U.S. Joint Advisory EAC Draft Directive, "*Apprehension and Detention of War Criminals*," 21 Oct. 44.

² *Army Talks*, Vol. IV, 26, 11 Nov. 45, pp. 19-24. Lemkin, "*Axis Rule in Occupied Europe*," 1944, Carnegie Endowment, Int. Law Division.

These were pin-pointed by specific charges and specifications naming the places, dates, persons involved and giving detailed descriptions of the offenses. They included such well-known cases as: the round-up of professors and students at Strasbourg University, who were imprisoned at Clermont-Ferrand; brutality to French deportees, some 2,000,000 of whom allegedly died in concentration camps such as Dora, Buchenwald and Dachau; the extermination of towns such as Oradour-sur-Glane; the murder and ill-treatment of Allied prisoners of war; looting and killing of hostages; the massacre in the Ardennes during The Battle of The Bulge of about 120 American prisoners of war near Malmedy by the First Adolph Hitler SS Panzer (Armored) Division.

Capt. Curt Bruns was convicted during hostilities at Duren by the First American Army Military Commission for murdering two American prisoners of Jewish extraction at Bleialt, Germany on or about 20 Dec. '44 and given the death sentence. More than 800 cases of violence against captive American airmen were reported. Many of these were committed by civilians, under the urgings of Heinrich Himmler, aided at times by German police, but rarely by military personnel. The civilian mobs were encouraged by radio broadcasts of Dr. Goebbels and other Nazi leaders. They were actually promised immu-

nity from prosecution by Martin Borman on 30 May '44. A *partei* chief at Wolfenbittel, 28 Sept. '44, required a German army captain to execute summarily a captured American flier who was his prisoner of war.

An American Military Commission at Wiesbaden on 8 Oct. '45 tried the commander, the doctor, the nurses and attendants of Hadamar Hospital for extermination by lethal injections of 450 Poles and Russians. Charges against 40 persons were made for murder in the Dachau concentration cases. Both of these camps had victims who were deported involuntarily into Germany, against the laws of war and criminally mistreated along with thousands of German nationals who were killed at the two camps. These offenses were listed as "crimes against humanity."

When the Allied invasion of the Continent became a reality, Supreme Headquarters, American European Forces (SHAEF) began preparing as early as 5 June '44 for the apprehension and punishment of war criminals. The Army Group commanders were ordered to apprehend and take into custody all war criminals "so far as the exigencies of the situation permit."³ Procedure and a form of reports were prescribed by directives for all subordinate commanders in Europe. Screening processes that were to be followed by PWX, DPX and CIC personnel were outlined to search

³ SHAEF to Army Groups directive 7 Sept. '44.

out those among the enemy forces who had violated the Geneva Convention treaties as well as the Laws and Usages of War and list them for trial.

A War Crimes Branch was established in the Judge Advocate Section, ETOUSA⁴ to investigate crimes and atrocities irrespective of who committed them and against whom they were committed. The teams operated under Army Group and Army control. Their efforts were hampered only by the lack of competent personnel available to make them effective.

The United Nations War Crimes Commission was established in London on 20 Oct. '43 and was composed of 16 member countries. This was an overall operation, while SHAEF established its own Central Registry of War Criminals and Security Suspects (CROWCASS) to gather lists of offenders and evidence where the offenses were committed solely against our military and OSS (Office of Strategic Service) personnel. The list of war crimes included all members of the SD, Gestapo, Waffen SS and top-ranking members of the Nazi party. At one time G-2 USFET had a list of 150,000 security and war crime suspects. We were in the War Crimes business on a wholesale basis from the time we waded ashore in Normandy.

But the actual court-prosecution of war crimes suspects had to wait

for V-E Day for fear of reprisals by the enemy. We evacuated and confined these suspects and tabbed their cards for later handling as war criminals. However, as early as 12 Nov. '44 ETOUSA Hq authorized subordinate commanders to appoint Military Commissions and try "such violations of the laws of war as threaten or impair the security of the U.S. forces or the effectiveness and ability of such forces or members thereof." Only one such case was tried before V-E Day (Capt. Curt Bruns, *supra*). But as soon as V-E Day passed, our commanders got busy and war criminals were brought before military commissions or Military Government courts.

The Judge Advocate Section of the 15th U.S. Army in the Rhineland, headed by this writer, set in motion with the sanction of 12th Army Group the first prosecution of civilian war criminals inside Germany. During April and May, 1945 the War Crimes Branch of the 15th Army had pursued clues and interviewed displaced persons, freed prisoners of war and those who were released from concentration camps, both in the Rhineland and the Ruhr. As a result, Lt. Gen. Leonard T. Gerow, Commander of the 15th Army, appointed a Military Commission to try four suspects for the violation of the Laws and Usages of War and the specific crime of murdering a shot-down

⁴ WD Letter, AG 000.5 OB-S-AM, Subject: "Establishment of War Crimes Offices," 25 Dec. '44.

American flier at Preist near Trier, Germany on or about 15 Aug. '44. There were two trials in the one case. The first held on 2 June '45 in the Kreishaus in Ahrweiler, Germany found the three defendants guilty. The second, called on 16 June '45 to try the remaining defendant who had not been apprehended until 6 June '45 was held in the same place and resulted in the same verdict. All four defendants were sentenced to death.

By command of General Gerow three of the defendants were hanged for their crime on 29 June '45 in the Interrogation Center at Rheinbach and LIFE magazine gave the trial and the execution several pages of pictorial coverage. The death sentence of the fourth German, who had held many civilians back with his shot-gun who might have saved the American from the mob's wrath was commuted to life imprisonment.

Prior to 1 Nov. '45, 19 war crimes cases had been tried, involving 56 accused of whom 9 were acquitted and 28 death penalties were assessed. We had two agencies processing war criminals in Europe: the U.S. Chief of Counsel (civilian) and the Judge Advocate General (military). The trials were many and prolonged. American civilian personnel, trained in the law as advocates and trial judges were dispatched to Europe after the hostilities to pursue these prosecutions.

A total of 3,887 cases were investigated that could be termed "War Crimes" by the occupying U.S. mili-

tary forces. There were brought to trial 1,672 persons before the Army courts in 489 cases. Of the 1,021 accused of mass atrocities, 878 were convicted and of the 651 accused of single atrocities 538 were convicted bringing the total convicted to 1,416. All sentences were reviewed just as would have happened to an accused GI before a court-martial and many of them were modified or commuted. Sixty-nine sentences were disapproved by the Reviewing Authority and 138 death penalties were commuted to life imprisonment or to lesser terms of years. Death sentences actually executed were 244. These figures do not include the Nurnberg trials nor other conducted before International Military Tribunals.

Then, too, the Germans themselves, many of them smarting under the memories of Nazi oppression, undertook the punishment of their own people for crimes committed against them of their relatives. *The Stars and Stripes*, 4 Oct '45, reported a trial of five SS guards, charged as war criminals, in a German Peoples Court in Berlin. Two were sentenced to death and the others got long prison terms. Ten years later they were still pursuing such cases. A Bulgarian Peoples Court sentenced to death or prison political and military persons held responsible for Bulgaria's participation in the war as an Axis ally.

A final view of war crimes was made in 1945, while the JA Section of the General Board was winding

up its study of War Crimes and other topics at Bad Nacheim, by General George S. Patton who was assigned to the command of the history-writing operation. He had been disciplined by the C-in-C for his press interview where he had likened the Nazi Party membership to membership in political parties in the U.S.A. Demoted from his proud Third Army command, he was now in charge of a paper-army and coordinating the work of the several staff sections who were preserving the experiences of the European campaign for posterity.

One afternoon Brigadier General Edward C. Betts, JAGD, Theater JA from Frankfurt-am-Main came on a perfunctory staff call to Bad Nauheim to inquire how the JA study was progressing. He requested the Chief of the JA Section to take him to the Grand Hotel headquarters so that he could pay his respects to the Board's commander.

There was a short wait in Gen. Pattons' office, but when the General finally came in his greetings were short and he flared out at his visitor: "Betts, you're going to get every goddamned one of us officers killed in the next war, if we lose it, with these crazy War Crimes trials of yours!"

The Theater JA tried to explain some of the why's and wherefore's and mentioned something about International Law! Patton blasted back. "They won't go by *your* rules. They'll hang us and give us a fair trial afterwards. You watch, you're setting a precedent right now that will haunt the American Army for years to come!"

Both of these Generals have now passed on and only the third party present at that little incident is alive to bear this testimony, but the ghost of that 1945 Banquo rises today in Vietnam to haunt us. *Looks like old Georgie called the shots once again!*

ANNUAL MEETING 1967

The Twenty-first Annual Meeting of the Judge Advocates Association will be held in Honolulu on August 7, 1967, coincident with the annual convention of the American Bar Association.

Colonel Andersen, President of JAA, has named a committee on arrangements consisting of Colonel Benoni O. Reynolds, USAF, Colonel Paul J. Leahy, USA, and Captain Saul Katz, USN. These officers are advancing plans for a first rate gathering of JAA members in Honolulu at the Cannon Club. Meanwhile, all members planning on meeting in Hawaii should make their travel and hotel accommodations early. By all means, remember the date—August 7, 1967—and hold it open for the Annual Meeting and Dinner of the Judge Advocates Association.

What The Members Are Doing . . .

California

Capt. J. J. Brandlin of Los Angeles recently announced that his law firm, Vaughan, Brandlin, Robinson and Roemer, has opened an office in Washington, D.C. at the Shoreham Building. The L. A. office of the firm remains at 411 W. 5th Street.

Capt. Barry H. Sterling of the Beverly Hills law firm of Hindin, Sterling, McKittrick & Powsner, recently announced the opening of offices in Washington, D. C. in the Ring Building with *Lt. Ira S. Siegler*. The D. C. firm will be known as Hindin, Sterling and Siegler.

Col. Elisha Avery Crary of Los Angeles has been appointed a United States District Judge for the Southern District of California.

District of Columbia

Lt. Cdr. Josephine R. Garrison has entered the private practice of law with offices at 806 - 15th Street, N.W., Washington.

Col. Frederick Bernays Wiener has completed the writing of a most interesting and thoroughly documented work of legal history entitled: "Civilians Under Military Justice—The British Practice Since 1689, Especially in North America." The book will be published by the University of Chicago Press in the summer of 1967.

Capt. Eugene Ebert announces the formation of a firm for the practice of law under the style Ebert & Johnson. The firm's offices are at 1925 K Street, N.W.

Lt. Col. Oliver Gasch has been appointed a United States District Judge for the District of Columbia.

Col. John Lewis Smith, Jr. was recently appointed a United States District Judge for the District of Columbia. Heretofore Col. Smith has served as Chief Judge of the District of Columbia Court of General Sessions.

Illinois

Lt. Ronald S. Supena of Chicago recently became associated with the firm of Pritchard, Chapman, Pennington, Montgomery and Sloan. The law firm's offices are at 209 S. La Salle Street.

Louisiana

Col. Lansing L. Mitchell of New Orleans was recently appointed as a United States District Judge for Louisiana.

Missouri

General Nathaniel B. Rieger of Jefferson City is Commissioner of Securities for the State of Missouri.

New York

Lt. Col. Carlton F. Messinger of Buffalo recently announced the re-

removal of his law offices to the Elliott Square Building.

Major Joseph F. Hawkins of Poughkeepsie was recently elected Supreme Court Justice for the Ninth Judicial District of New York.

Col. Alexander Pirnie of Utica was reelected to the U. S. Congress.

Oklahoma

Col. Carl Bert Albert of McAlester was reelected to the U. S. Congress. Col. Albert is the majority leader of the House of Representatives.

Lt. Cdr. Jack Parr of Oklahoma City has been elected a District Judge for Oklahoma City.

New Jersey

Major Leonard Hornstein of Jersey City is SJA of the 78th Division, a position which his father, *Col. Isidore Hornstein*, held some thirty years ago. The Hornsteins, father and son, practice law as partners at 921 Bergen Avenue in Jersey City. Col. Hornstein served in WW I as an enlisted man and

in WW II as a judge advocate in Europe. The younger Hornstein enlisted in the Navy in 1945 and served during the Korean conflict. Commissioned as an Army judge advocate, he has been an active reservist . . . following a path to a law career very similar to that of his distinguished father.

Harold L. Wertheimer of Atlantic City was recently promoted to lieutenant colonel in the reserve component of Army JAGC. Col. Wertheimer practices law at 1 S. New York Avenue in Atlantic City.

Utah

Lt. Col. Calvin Rampton of Salt Lake City is Governor of the State of Utah.

Wyoming

Col. George F. Guy of Cheyenne has retired after more than 34 years of service and 12 years as the Judge Advocate General of the Wyoming Army and Air National Guard. Col. Guy continues in the private law practice with the firm of Guy, Phelan, White and Mulvaney at 1600 Van Lennen Avenue.



