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ADVISORY COMMITTEE ON MILITARY JUSTICE
 WAR DEPARTMENT
 WASHINGTON

744 Broad Street
 Newark 2, New Jersey
 September 21, 1946

Dear General McNeil:

The summary of constructive criticisms received by the Advisory Committee and the list of contributors have been brought up to date by Captain Sturtz. Both the summary and list are enclosed herein. I would appreciate it if you would have stencils cut on these two items and send at least three copies to each member of the Committee. I would suggest that a fairly large number of extra copies be run off at the same time.

Please be sure to have the stencils run from the enclosed copies, which have some interlineations and some pages retyped, rather than the earlier copies which I furnished you a month or more ago.

Very sincerely yours,

/s/ Arthur T. Vanderbilt

Brigadier General E. C. McNeil
 Office of the Under Secretary of War
 Room 3E-741 The Pentagon
 Washington 25, D. C.

2 Incls
 1 - Summary of Criticisms
 2 - List of Contributors

Honorable Arthur T. Vanderbilt
744 Broad Street
Newark 2, New Jersey

THE ADMINISTRATION OF MILITARY JUSTICE

(A summary of constructive criticisms
received by the War Department's
Advisory Committee on Military Justice)

/s/ M. A. STURTZ

MAXWELL A. STURTZ
July 25th, 1946.

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THE ADMINISTRATION OF MILITARY JUSTICE
Introduction

The following summary has been derived from all the correspondence received by Dean Vanderbilt, Judge Thompson, Mr. Armstrong, and various members and committees of the War Department, relative to the matter of military justice, and represents some 610 criticisms contained in approximately 330 letters from residents of all sections of the country. A large percentage of the contributors are lawyers who did legal work of some sort while in the military service, and their criticisms are almost entirely based upon personal experiences. A number of them have gone to the trouble of preparing memoranda of up to forty pages.

The comments made by these contributors are both favorable and unfavorable to the present system of military justice, and both sides are presented in the following outline. The criticisms outweigh the praise. To simplify the problem, this compilation is presented in two sections: Part I continues the preliminary summary by Captain Warren, by illustrating the approximate number of criticisms made with reference to each phase of the system; Part II is a treatment of the criticisms in the chronological order in which they normally appear in the average case.

(* criticisms marked with an asterisk are either favorable to the present system of military justice, or are recommendations for enlarging rather than narrowing certain powers or fields of jurisdiction.)

PART I

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PART II

A. BEFORE TRIAL

1. UPON APPREHENDING THE ACCUSED

a. Availability of Defense Counsel

Though the Manual for Courts-Martial provides that the accused is entitled to services of counsel of his own choice,

1. There may be no trained lawyer immediately available.
2. Accused may be denied his request, or may be falsely informed that counsel of his choice is unavailable.
3. Accused frequently languishes in confinement without the benefit of legal advice until shortly before trial.

b. Availability of Witnesses

Though the accused may ask the Trial Judge Advocate to subpoena witnesses on his behalf,

1. His witnesses may, for genuine reasons, or for malicious ones, or through carelessness, be transferred from the immediate jurisdiction.
2. Inasmuch as Defense Counsel often does not appear until a day or two before trial, accused is prejudiced in that he is unable to have his witnesses interviewed and to otherwise prepare his defense.

c. Discrimination on Behalf of Officers

Though there is theoretically no discrimination between treatment of officer offenders and enlisted offenders,

1. Officers are often permitted to escape punishment for offenses for which an enlisted man would be held:
 - (a) An officer offender may, through influence in high places, be transferred to another jurisdiction, thereby preventing an investigation.
 - (b) An officer offender may be completely absolved by immediate commander, to whom he may be pecuniarily indebted, or who may be indebted to him, or who may be a personal friend, or who may have a theory that the trial of one of his officers is a reflection on him - whereas the trial of an enlisted man is not.

RECOMMENDATIONS:

1. That competent counsel be made available to accused from the moment of his arrest or confinement.
2. That the Defense Counsel be permitted to subpoena witnesses; that the use of depositions be more widely permitted.
3. That the practice of discriminating on behalf of officers be effectively discouraged.

2. PREFERRING OF CHARGES

a. Fluctuating Standards

Standards of culpability as well as of punishment are constantly changing, for

1. The Court-Martial is frequently used as a substitute for leadership, frequency of use changing not only with each change in command, but also per the whim of a given commander. (Example: A commander observing laxity in saluting may suddenly give orders that all offenders shall be brought in and tried; the following week some other item may be the focus of disciplinary action, while failure to salute is once more overlooked.)

b. Instrument of Prejudice

Charges are often preferred through pique or prejudice, equally guilty parties being absolved or reprimanded so as to make them available as witnesses against the particular individual whom the commander dislikes.

c. Fictional Accuser

The commander frequently orders or requests a junior officer to prefer and sign the charges against an accused, thereby leaving the commander free to appoint the court, review its decision, and decide on matters of mitigation and clemency, and, in some cases, to sit on the court.

RECOMMENDATIONS:

1. That the system of military justice be divorced from command.
2. That, as pertains to such disciplinary powers as may be left to the commander, a program of thorough indoctrination as to War Department policy and standards be undertaken.
3. That the real accuser be required to sign the charges and that coercion of another to do so be made a court-martial offense.

3. COMPANY PUNISHMENT: ARTICLE OF WAR 104

a. Accused's Right of Choice

Despite the fact that an accused has a right to ask for a court-martial, in preference to having company punishment imposed,

1. The accused is often not properly advised of this right of choice or even given a choice.
2. The accused often accepts company punishment to avoid the stigma of a trial, even though he knows he is innocent of any wrong-doing.
3. Accused often accepts company punishment because he feels that courts-martial automatically convict.

b. Right to Court of Enquiry and Right of Appeal

Though the 97th and 121st Articles of War guarantee these rights to the accused,

1. The existence of these rights is not generally known; there is no pertinent indoctrination of personnel; the Articles are practically dead letters.
2. The rights which obtain under these Articles are relatively unimportant, for, in practice, it is believed ill-advised to risk the displeasure of one's superiors in the chain of command by resort to these remedies.

c. Punishment Under Article of War 104

1. Discipline under this Article is often used as a substitute for leadership.
2. Unauthorized punishments are sometimes imposed.
3. The right to impose punishment has sometimes been delegated to the 1st Sergeant, who uses this delegated authority to unjust advantage.
- * 4. Allowable punishments are not severe enough to be effective.

RECOMMENDATIONS:

1. That all personnel be thoroughly indoctrinated as to right of choice under this Article of War, and the rights pertaining under Articles 97 and 121, and that these latter Articles be included in those now required (by A.W. 110) to be read to personnel every six months.
- * 2. That a policy be enunciated which will encourage the use of the 104th Article of War in more cases of a purely military nature, and that authority to discipline under this Article be enlarged to permit limited confinement and forfeiture of pay, thus eliminating the necessity for Summary Courts.

4. PREPARATION OF CHARGES

a. Fitness of Personnel

1. The unit commander, 1st Sergeant, and unit clerk are often inept, uninformed, prejudiced, and un-inspired, as regards matters of military justice and the fundamental problem of preparation of charge sheets.
2. This personnel often fails to read pertinent directives, and, in many cases, are unable to interpret the same.

b. Assistance by Trial Judge Advocate or Staff Judge Advocate

Advice on preparation of charges necessarily prejudices the Trial Judge Advocate's or Staff Judge Advocate's advice to the appointing authority relative to reference of charges for trial and review of the record of trial.

c. Delays in Preparation

Pressure of other duties, or the absence of the commander who is to sign the charge sheets, often results in delays in preparation and correction, during which time the accused may remain in confinement.

d. Coupling of Charges

Major and minor charges, redundant charges, or in-applicable charges are often coupled, resulting in a more severe sentence upon conviction on a minor charge only.

RECOMMENDATIONS:

1. That unit commanders and administrative personnel be more thoroughly indoctrinated as to War Department policy and technical matters relating to the preparation of charges.
2. That directives pertaining to military justice be simplified, so that personnel without legal training will take the time to read and interpret them.
3. That legal assistance be made available to the unit commander in the preparation of charges, but that it come from one unconnected with the trial or review.
4. Stricter compliance with Article of War 69, which states that persons charged with minor offenses shall not ordinarily be placed in confinement, is necessary, so that accused does not languish while there are delays in the preparation of charges.
5. Coupling of charges (a form of "throwing the book") should be effectively discouraged by clear statement of War Department Policy, and by divorcing military justice from command so that a Trial Judge Advocate will be in an independent position to delete extraneous charges.

5. INVESTIGATION OF CHARGES

a. The Investigating Officer

Though theoretically appointed to make an impartial investigation and recommendation,

1. The investigating officer is almost always assigned this task in addition to his other duties, usually to his great annoyance.
2. He is generally subservient to the desires of his commander as they may relate to a particular case.
3. He is generally inexperienced, uninformed, uninterested, and not thorough.
4. He frequently has prior knowledge and opinions as regards the particular case.

b. The Investigation

1. Article of War 70, requiring an investigation prior to trial is applicable only to General Courts-Martial, and not to other types of courts.
2. The investigation is often either hurried or delayed, to the prejudice of the accused.
3. The investigation is often precursory, a mere matter of form.
4. The accused does not ordinarily have counsel at his investigation.

c. Failures in Investigation

Though the investigation is presumably designed to prevent unjust or uncalled for prosecutions,

1. Many are tried who should not be, for
 - (a) The investigation frequently fails to disclose such factors as lack of training or orientation of the offender, - the fact that the accused is a first offender, - that there is a psychiatric aspect to the case, - or that, as in many AWOL cases, the accused committed the offense after requesting an emergency pass or furlough which was unjustifiably refused by a commander who declined to recognize an emergency, or by a 1st Sergeant who refused to let the accused speak to the commander.

d. The Report of Investigation

1. The report is usually a stereotyped affair.
2. A recommendation for trial amounts to a conviction.
3. A recommendation that there be no trial is often disregarded by the commander once the formality of investigation has been observed.

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (re Investigation of Charges);

1. That a trained investigating officer, having no other duties; come from outside the command to which the accused belongs.
2. That Article of War 70 be made applicable to all types of Courts-Martial, and that it be strictly enforced.
3. That the practice of requiring that an investigation and other matters of procedure be accomplished within a certain number of days be outlawed, so as to avoid insane races between commands and thereby assure the accused a more thorough investigation.
4. That the system of military justice be divorced from command, so that the above-mentioned failures of investigation will not occur so frequently.
5. That the report of investigation be forwarded to a higher headquarters than that of the command to which the accused belongs, and that, in cases of recommendation for trial, it serve as an indictment.
6. That there be a new investigation if the charges or specifications are amended.
7. That where, under the present system, the investigating officer recommends trial by general court-martial, and the recommendation is approved by the commanding general of the jurisdiction, the papers be turned over to an officer of a different command for recommendation and possible reinvestigation.

6. Advice of Trial Judge Advocate or Staff Judge Advocate on Referring Charges for Trial.

a. Influence of the Commander

1. The advice of the Staff Judge Advocate or of the Trial Judge Advocate is too often influenced by the policies of the commander.
2. Recommendations for psychiatric observation is often used to get rid of personnel against whom no substantial charges lie.

b. Further on the Psychiatric Aspect

1. Psychiatric factors are often ignored by those responsible for advising the commander on legal matters, and to such an extent that, in some jurisdictions, a private feud sometimes develops between legal advisers and medical personnel.

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (re Advice of TJA & SJA on referring charges for trial):

1. That the system of military justice be divorced from command, so as to make legal advisers independent of commanders.
2. Boards consisting of one officer and two enlisted men should be provided to investigate charges, and, if necessary, to refer them to Summary or Special Courts-Martial for trial, and, if deemed appropriate by said boards, to recommend trial by General Court-Martial.
3. That the positive report of a psychiatrist should be a bar to trial, or that it should call for a board of psychiatric inquiry whose investigation must precede any disciplinary action.
4. That the psychiatrist be independent of command.
5. (That a psychiatrist be appointed to assist this Committee.)

Comments by Committee Member on Part II A. (Before Trial):

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Comments by Committee Member (cont'd)

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B. COURTS & TRIALS

1. The Courts: Personnel

a. Use of Unqualified Personnel, Malassignment, and Part-Time Assignment.

1. The Army proceeds under the misapprehension that an officer is a jack-of-all trades, and that any officer is capable of handling legal duties.
2. A large percentage of the personnel assigned legal duties are entirely inept and unqualified morally or intellectually for their jobs.
3. Legal tasks are generally assigned in addition to other duties, thereby detracting from the calibre of work done in the field of military justice.
4. All commanders are not of judicial temperament, and, while those in command during peacetime may be indoctrinated to some extent, rapid promotions in time of war place in command of units and areas men who are entirely unsuited to the exercise of discretion in matters of military justice.
5. It is generally true that, with the exception of the Judge Advocate General's personnel, officers assigned legal duties are those who can easily be spared, and not those who are suited for such assignment.

b. Use and Misuse of Trained Lawyers

1. There are a good many trained lawyers assigned to all sorts of work, and the Army is thereby depriving itself of the services of available legal talent.
2. Policy provides no place for lawyers in the Tables of Organizations of many units and area, thereby minimizing the chances for promotion of personnel engaged in legal work, and placing such personnel at an extremely disadvantageous position in the military scheme.
3. The American Bar Association failed to support the claim of the members of the legal profession to recognition equal to that accorded members of the medical and other professions.

RECOMMENDATIONS:

1. Selection

- a. That the courts be composed of civilians, so as to insure impartial decisions not only on the law but on matters of fact as well.
- b. That the courts be appointed by the Department of Justice and approved by the Senate.
- c. That the courts be appointed by the President and approved by the Senate.
- d. That Courts-Martial be integrated into the Federal Judiciary.
- e. That the system of military justice be entrusted to personnel outside the chain of command and free from subservience to temperamental lay commanders.

RECOMMENDATIONS:

I. Selection (of personnel)..(cont'd)

- f. That the Army make a concerted effort to utilize available legal talent, and abandon the theory that any officer is capable of handling legal duties.
- g. That, in order to have an available pool of qualified personnel available to step in to the breach in time of war, lawyers be commissioned into the Reserve, or that law school graduates be commissioned into the Reserve, or that only honor graduates be commissioned into the Reserve.
- h. That, with the exception of the Trial Judge Advocate and Defense Counsel, no member of a General Court-Martial be under the rank of major.
- i. That only personnel with an Intelligence Quotient of 110 or over be eligible for court duties.

2. Training

- a. That the Judge Advocate General's School be reopened, and the JAG Office be expanded.
- b. That the course in military law at the U.S. Military Academy be improved.
- c. That said course be abolished, so that embryo commanders will not deem themselves qualified judges; that a course in civics and the history of fair trial be substituted.
- d. That appropriate brochures be distributed to all personnel to indoctrinate them in the matters of military justice.

c. Trial Judge Advocate and Defense Counsel

1. Trial Judge Advocates and Defense Counsel are often not lawyers, and may be completely untrained in legal matters. Assignment of such personnel to these duties is sometimes purposeful.
2. When legally-trained personnel is available, the better men are usually assigned as Trial Judge Advocates, leaving the matter of defense to the less-qualified.
3. When a Defense Counsel is successful, there is a tendency to reappoint him Trial Judge Advocate.
4. Both the Trial Judge Advocate and Defense Counsel may be subservient to a commander who is responsible for their promotions, and who reprimands them or has them transferred for going against his wishes in the handling of a case.
5. The Trial Judge Advocate is occasionally of higher rank than the Defense Counsel, thereby lending a greater prestige to the Government's case.
6. These duties are often assigned in addition to other tasks, and the resultant work is haphazard and disinterested.

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (re TJA & DC):

1. Trial Judge Advocate and Defense Counsel must be lawyers.
2. They should be members of the Judge Advocate General's Department, and be independent of command channels.
3. They should be of the same rank, or the Defense Counsel should be of higher rank.
4. They should travel from one jurisdiction to another, so as not to be on too familiar terms with local commanders, and the teams should be continually split up and reformed.
5. They (as well as the Law Member) should have no rank whatsoever, but should be civilian employees.
6. The Trial Judge Advocate should be called the Prosecuting Counsel, and his duties should be confined to the task of prosecution, and he should be entirely unconcerned with advice to commanders or review of the court-martial record.

d. The Law Member and the President of the Court

1. Though there is provision for a Law Member on a General Court-Martial, use of untrained personnel is countenanced when a member of the Judge Advocate General's Office is not available.
2. There is no provision for a Law Member on a Special Court-Martial.
3. The Law Member is frequently subservient to the wishes of the commander, and, even though he may be a lawyer, may therefore countenance violations of procedure which an independent Law Member would not permit.
4. The President of the Court is frequently the commander's executive officer, or even the commander himself, and often exercises undue influence over the proceedings and over the deliberations of junior members of the court.
5. On occasion, a particularly prejudiced or severe officer is purposely appointed president of the court so as to insure convictions and heavy sentences. A change in Law Member may even be made to insure a conviction in a particular case - in which the commander may be interested.
6. Because of the presence of a disciplinarian as president, Defense Counsel have often resorted to use of the peremptory challenge against him, as a matter of policy, and have frequently been reprimanded for same.

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (re Law Member & President of Court):

1. There must be a Law Member on every General and Special Court, and the absence of a Law Member must be held to be prejudicial error.
2. That the Law Member and President of the Court be one and the same person, and that he preside with no vote, he being the judge and the rest of the court the jury.
3. That he be a member of the Judge Advocate General's Department, or that he be a civilian; that, at any rate, he be independent of command.
4. That, if he be in the military service, he hold the rank of Colonel commensurate with his responsibilities, and be independent of command, and responsible only to Washington.
5. That he should have the final say on all matters of military strategy and all interlocutory matters, excluding the plea of insanity.

e. The Summary Court

1. The Summary Court Officer is frequently untrained, and, in practice, the duty is often given to a young, inexperienced officer.
2. The Summary Court Officer, possibly more than any other court members, is usually subservient to the wishes of the commander, particularly in view of the fact that (as above) he is ordinarily a junior officer who can be spared for this task in addition to his other duties.

RECOMMENDATIONS:

1. The Summary Court should be an experienced senior officer, preferably a lawyer.
2. He should be a member of the Judge Advocate General's Department, and independent of command.

f. Ordinary Members of the Court

1. Members of the Court are under the influence of the commander.
2. They are usually annoyed by being assigned this additional duty.
3. They often pridefully build up a reputation for being a severe court.
4. They frequently have prior knowledge of the facts of the case, may have discussed it privately, and have often decided their vote before the trial.
5. They are, in the absence of a Law Member, totally unqualified to vote upon the admissibility of evidence.
6. They sometimes come from coordinate commands, whose attitude towards the command of the accused is "You convict mine - I'll convict yours."

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (Re Ordinary Court Members):

1. That they be selected from an eligible list of qualified personnel.
2. That they be selected from a panel prepared by the local Staff Judge Advocate, and that they constitute a military jury.
3. That there be a colored member on each court trying a case involving a colored defendant, and that there be a member of the Women's Army Corps on each court trying an accused member of that Corps.

g. Enlisted Men on the Courts

1. It is undemocratic not to have enlisted men on the courts, and such omission can have no other effect than to invite criticism.
2. Enlisted men's cases are prejudiced by the absence of enlisted personnel on courts.
3. Many enlisted men are more fully qualified than many officers to sit on courts.
4. The use of enlisted men as Defense Counsel is forbidden in some jurisdictions, and is frowned on in most.
5. Inclusion of enlisted men on courts-martial would result in less severe sentences.
- * 6. Inclusion of enlisted men on courts-martial would result in more severe sentences.
7. Not only is a trial without enlisted men not a trial by a cross-section of citizens, it is not even a trial by one's peers.
- * 8. Most enlisted men are unqualified to sit on courts.
- * 9. Enlisted men on a court would be awed and servile.
- * 10. Enlisted men on courts would be unpopular with other enlisted men and would rather not sit.
- * 11. Enlisted men would rather be tried by officers than by noncommissioned officers and other enlisted men.
- * 12. Enlisted men would lose respect for officers after sitting on a court trying an officer.

RECOMMENDATIONS

1. That first three grade enlisted men sit on courts.
 2. That all enlisted men be eligible to sit on all courts.
 3. That they sit only on General Courts-Martial.
 4. That they sit only in cases involving enlisted accused; that they sit in all cases.
 5. That a certain proportion of enlisted men be set for each type of court.
 6. That they be eligible to hold any position on a court.
 7. That they be assigned to courts as a matter of right; that they be assigned to courts to improve morale and bolster public confidence.
 8. That enlisted men should not be assigned to courts
- * (for above-listed starred * reasons) .

2. The Courts: Jurisdiction

a. Bases of Jurisdiction

1. Despite statements of policy, the commander, who ultimately decides which type of court is to decide the case, ordinarily makes his decision in a rather off-handed manner, rather than according to any set standard; there is no bar to a decision on this matter of reference being based solely on factors of pique or prejudice. Hence, courts achieve jurisdiction in a rather hit-or-miss fashion, and each type of court handles a myriad of cases which it should never see.
2. The problem is complicated by the existence of a large gap, in that officers are not subject to trial by any court other than a General Court-Martial, and the commander often hesitates before referring to said court charges which are really too minor to come before it, but for which a very inadequate remedy is available by way of mere unit punishment under the 104th Article of War.

b. Summary Courts & Special Courts

- * 1. Their jurisdiction is well defined.
- * 2. Their jurisdiction is too broad.
- * 3. Their jurisdiction is too narrow.

RECOMMENDATIONS:

1. Offenses should be better defined and classified.
2. Offenses should be divided into military offenses and offenses against persons and property, the former being tried by minor courts or under the 104th Article of War, the latter being tried by civil courts.
3. Offenses should be further subdivided into felonies and misdemeanors.
4. Courts should be appointed on a tactical or territorial bases, independent of command if possible, otherwise never lower than on divisional level.
5. Emergency courts should be provided on a divisional level in battle areas.
6. The special and general courts should be combined, serious offenses being tried by the resultant court and minor offenses by summary court or under Article of War 104.
7. Greater use should be made of the summary and special courts, and their jurisdiction should be extended to permit trial of officers.
8. The special court should be retained within the chain of command and its jurisdiction narrowed so that it cannot be used to avoid the use of general courts which should be outside the chain of command.
9. Summary courts should be abolished, their jurisdiction going either to the commander, under the 104th Article of War, or to reconstituted special courts.

3. The Trial

a. Challenges

The Law Member cannot be challenged off the court, and, inasmuch as he is ordinarily a member of the command, this may be prejudicial to the accused.

b. Pleadings

Due to faulty explanation by the President of the court or by the Law Member, or due to lack of interest on part of Defense Counsel in his advice to accused, a plea of guilty is often entered without its import being understood by the accused.

c. Presumption of Innocence and Burden of Proof

There persists a general feeling in the minds of many, including, very frequently, members of the court, that the accused has the burden of proving himself innocent, that he would not be on trial if it were not quite certain that he is guilty.

d. Credence, and Admission of Evidence

1. Testimony of officers is given greater credence than testimony of enlisted personnel.

2. Despite statements of policy to the contrary, greater credence is given to a sworn statement by the accused than is given to an unsworn statement which he has been advised to make, and, similarly, his remaining silent is usually considered an admission of guilt.

3. There is great laxity in admitting alleged confessions and statements against interest.

4. Failure to fix the proof required to establish a prima facie case for offenses inherently difficult to establish (e.g. AWOL enroute to join organization; self-inflicted wounds, etc.) makes for a disparity of findings.

5. In the absence of well-trained personnel, whim or ignorance results in the court deciding in its own mind what evidence it will require to establish the case for the prosecution, so that, for example, a unit Morning Report (roll call) is often accepted as conclusive proof of guilt, though it be unsupported by other evidence.

6. Incompetence of personnel often results in the admitting of hearsay and other immaterial, irrelevant, and incompetent evidence.

7. The issue is often beclouded by the admitting of the testimony of character witnesses and pleas for clemency prior to the findings by the court.

RECOMMENDATIONS:

(next page)

RECOMMENDATIONS (re The Trial):

1. The Law Member should be susceptible to challenge for cause, or should at least come from outside of the jurisdiction to which the remainder of the court belongs, and should never be from the command to which the accused belongs.
2. The accused should be required to explain his own understanding of his plea of guilty, so that there may be no mistake before the court proceeds with trial, and, unless the punishment for the alleged offense be death or life imprisonment, there should be no trial where a plea of guilty has been entered, and the court, in its sentence, should give consideration to the time and expense saved the government.
3. There should be a most forceful and widely-published statement of policy by the War Department on the matter of presumption of innocence.
4. There should be a thorough indoctrination of court members as to standards of proof and admissibility of evidence, though the presence of a qualified Law Member would do more to assure a fair trial.
5. Thought should be given to the proposition of applying the new Federal Rules of Criminal Procedure to military courts.
6. No statement made by the accused should be admitted unless he acknowledges in writing that he was warned as to his rights and privileges prior to making the statement.
7. No evidence obtained by Military Police or through formal investigation or by boards of inquiry should be used against the accused except through the medium of witnesses produced at the trial.
8. Unavailability of witnesses necessitates the liberalizing of rules pertaining to the safeguarding and admissibility of documentary evidence, the perpetuating of documentary evidence in theaters of war, and the use of depositions.
9. Inadequacy of training should be admissible as a defense in certain types of cases, such as those involving a charge of sleeping while posted as a sentry.
10. Character witnesses and arguments for clemency should be presented after the court has decided on the issue of guilt.
11. A unanimous verdict should be required in all cases - in the more serious cases only.
12. Evidence of previous convictions during the three years preceding trial (now limited to one year preceding trial), and evidence of disciplinary action under the 104th Article of War should be admitted before the court proceeds to deliberation on the matter of sentence.
13. Sentence should be pronounced by the Law Member.
14. Mitigating circumstances should be considered by the court as to the innocence or guilt of the accused, and not merely as to possible reduction in sentence.

4. Punishment

a. Lack of Uniformity

1. Punishments are not uniform as between different jurisdictions; in fact they are grossly disproportionate.
2. Two standards of justice exist: one for officers and another for enlisted men.
3. Different standards exist with regard to punishment of officers in the different components of the Army, with the Military Academy graduate being accorded the greatest degree of leniency, and graduate of Officers' Candidate School the least amount of consideration. Between these two extremes lie the Regular Army Officers, the members of the National Guard, and the members of the Officers Reserve Corps, in approximately that order.
4. Punishments often bear no relationship to the average for the country where the offense has a civilian counterpart.
5. Fines are disproportionate, and the tendency is to collect fines from light offenders and to remit fines assessed heavy offenders.
6. Punishment is frequently meted out in excess of the Table of Maximum Punishments, and the sentence served before the error is corrected.

b. Severity

1. The verbiage "as the court-martial may direct" gives the court unheard-of latitude.
2. The present requirement that dismissal or dishonorable discharge be awarded in certain instances, and the permissibility of awarding it in other instances, has resulted in the inequitable ruination of the lives of many soldiers.
3. Uncontrolled use of the dishonorable discharge has resulted in many slackers being released from service before combat veterans have been released.
4. There is no provision for the placement of dishonorably discharged juveniles under the custody of civil probation officers.
5. Punishments available to the various types of courts are generally too severe in comparison with their counterparts in the civil courts, and, as awarded, are even more disproportionate.

c. Matters of Mitigation

1. The court is generally informed that it has a duty of awarding the maximum punishment, and that consideration of matters of mitigation and exercising clemency are to be left to the reviewing authority; the latter is frequently a disciplinarian and fails to consider these matters.
2. Specifically, the court often fails to give adequate consideration to the import of psychiatric reports and obvious emotional instability of the accused.
3. Specifically, the court often fails to give adequate consideration to evidence of improper adjustment of the accused to military service, and the fact that he may be a first offender.

RECOMMENDATIONS:

- * 1. Punishment should be increased in time of war for offenses involving critical government property, breaches of security and censorship, and failure to appear for guard duty.
2. Punishments should be on a preestablished scale.
3. Punishments should be on a scale proportionate to the average for the locale where the offense has a civilian counterpart.
4. The Table of Maximum Punishments should be applied to officers as well as enlisted men, and should be scaled more heavily for offenses overseas than for the same offenses in the Zone of the Interior.
5. Officers should be susceptible to reduction in rank and reassignment.
6. Officers should be susceptible to reduction to the ranks and to confinement for the same offenses which would result in this punishment being awarded enlisted men.
7. Military Justice should be centralized under the Judge Advocate General's Department, which should have the power to remit, remand, or otherwise modify sentences.
8. The verbiage "as the court-martial may direct" should be eliminated.
9. Use of the dishonorable discharge should be more restricted, and a "bad conduct discharge" should be provided for cases where the dishonorable discharge would be too severe.
10. The Summary Court should not be able to award a sentence of confinement.
11. The Special Court should have the power to award confinement up to two years, with a suspended dishonorable discharge, which should not be executed until release from confinement.
12. Dishonorable discharge should only be awarded in cases of such severity that long confinement is justified, so as to prevent the release of slackers from military service before the release of combat veterans.

13. The court should be permitted to consider all matters of mitigation, rather than leaving such considerations to the reviewing authority.
14. Summary Court sentences and Special Court sentences should be deleted from a soldier's records after a certain period of good behavior.
15. Little credence should be given to published statistics of the War Department, since the very fact that 18,000 cases have been reviewed by Justice Roberts' board, and the announcement of the thousands of reductions and remissions of sentences is in itself an indictment of the system of military justice.

5. Records and Reporting

- a. Because of lack of adequate records, review is a mere check on formality.
- b. Summary Courts have no stenographer or record, and the courts' papers provide no intimation as to what occurred during trial.
- c. Special Courts are inadequately reported, for the report is not a verbatim one.
- d. The Special Court record is prepared under the supervision of the Trial Judge Advocate and is frequently doctored before it is forwarded.
- e. The President of the Court and the Defense Counsel rarely read the record; they generally initial it automatically.
- f. The accused is frequently not supplied with his copy of the record of trial, even though he may have been induced to sign for it, and there is no copy for the accused in a Summary Court-Martial or a Special Court-Martial unless the Summary Court Officer or Trial Judge Advocate is good enough to voluntarily supply it.

RECOMMENDATIONS:

1. A verbatim record of trial should be made for each trial, and a copy thereof should be furnished the accused.
2. Preparation of the record of trial should be under the supervision of the Law Member, who should be independent of command, and, in a general court trial, the reporter should also be an outsider.
3. The record of trial should be initialed by the Law Member, as well as by the Trial Judge Advocate and the Defense Counsel.

Comments by Committee Member on Part II B. (Courts & Trials)

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Comments by Committee Member (cont'd)

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C. AFTER TRIAL

1. Execution of Sentences, Doctrine of Condonation, and Application for Pardon.

RECOMMENDATIONS:

1. That once a sentence has been assessed it should be carried out, for the practice of continual remission of unexecuted portions of sentences removes the element of deterrent effect from the disciplinary scheme.
2. There should be formulated a doctrine of condonation applicable to soldiers who, with knowledge of pending charges, are committed to battle.
3. A reasonable and expeditious method of applying for pardon should be provided for the purpose of rehabilitation and for lifting a disability which has become onerous beyond the intention of the court.

2. Review and Appeal

a. Right to Review and Appeal

1. The right to review and appeal has been limited, in practice, by rulings of the Judge Advocate to the effect that
 - (a) Waiver of court-martial under the 104th Article of War limits any appeal to the matter of penalty only.
 - (b) The decision of a court-martial will be upheld if there is any evidence which, if believed by the court of first instance, would sustain the verdict.
2. The 97th and 121st Articles of War, relative to Courts of Inquiry and Appeal from action by one's commander, respectively, are dead letters.
3. The 37th Article of War, relative to irregularities of trial affecting the substantial rights of the accused, has been rendered virtually useless by the practice of finding that even the most gross irregularities are not substantially prejudicial to the accused.
4. Commanders have often refused to forward letters of appeal, and have even secretly destroyed them without notifying the originator.

RECOMMENDATIONS:

1. There must be a strong statement of policy by the War Department as to the right of a soldier to the application of the safeguards of review and appeal; there should be a thorough indoctrination of all personnel on these matters, and the Inspector General's Office should take particular note of these matters in its administrative investigations.

RECOMMENDATIONS (re Review and Appeal) cont'd:

2. The process of review and appeal must be defined and clarified.
3. While there now exists an 'automatic review' of courts-martial, there should be instituted a system of appeal, with the right to file briefs or to argue orally.

b. Influence of the Commander

1. The appointing authority reviews the cases of the courts which it appoints, which procedure is highly prejudicial to the accused.
2. The advice of the Staff Judge Advocate to the appointing authority, relative to the review of cases, is frequently tempered by the former's knowledge of the whims of the latter.
3. Inspectors General, assigned to various commands, are likewise subservient to the desires of the commander.

RECOMMENDATIONS:

1. That the system of military justice be divorced from command, so that matters of review and appeal will go directly from the court to the Judge Advocate General's Department, without a stop at the desk of the local commander.
2. That the Judge Advocate General should have increased powers: that he should provide and supervise court personnel, and should review cases, with the power to quash, disapprove, order new trials, and reduce punishment.
3. That there should be like powers in the President, similar to that given in the amendment of R.S. 1199 proposed by General Crowder in 1919.
4. Review should at least be a function of the commander next senior to the one appointing the court.
5. There should be a civilian Military Court of Appeals.
6. Appellate jurisdiction should be given to the U. S. District Courts.
7. Reviewing authorities should be persons far enough removed from the scene of the trial that they can be free from the local factors which may have influenced the judgment of the court.
8. The Inspectors General should all be independent of command, and should be constantly rotated.

c. Boards of Review

1. Boards of Review do not review all types of cases.
2. Boards of Review pass only on the law involved.

RECOMMENDATIONS:

1. Boards of Review should review all cases involving confinement for more than six months, instead of only those involving executed dishonorable discharges.
2. Boards of Review should be permitted to consider issues of both law and fact in foreign theaters, not only in the cases where the confirming authority is the President and only as to cases in the United States; there should be no question of violation of the equal protection clause of the Constitution.

d. Miscellaneous

RECOMMENDATIONS:

1. The practice of allowing officers to be credited with the time which it takes for their case to be reviewed should be eliminated; officers must be required, upon conclusion of trial, to elect either to commence serving sentence or to serve the full sentence upon its approval.
2. There should be immediate publication of all opinions, to aid in clarification of policy, to establish precedents for the courts, and to allay public criticism of star-chamber proceedings.

Comments by Committee Member on Part II C. (After Trial):

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Comments by Committee Member (cont'd):

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D. THE COMMANDER

(a recapitulation)

1. The commander influences the preferring of charges, often ordering junior officers to prefer charges.
2. He supervises and directs the activities of investigating officers.
3. He supervises and directs the activities of counsel.
4. He supervises and directs the activities of courts.
5. He supervises and directs the activities of the Summary Court Officer.
6. He reprimands courts when he fails to agree with their findings, and thereby influences their ensuing deliberations in other cases.
7. He influences the advice and activities of the Staff Judge Advocate.
8. He is the reviewing authority, which is manifestly unfair to the accused, whom he may know and dislike.
9. He sometimes refuses to submit letters of appeal to higher headquarters, refuses to acknowledge letters requesting board of inquiry, and even destroys the letters with no further word to the originator, or tells the originator that he has forwarded the papers.
10. He frequently reduces an enlisted man administratively if, in his opinion, the sentence of the court was too lenient.
11. All commanders are not of judicial temperament.
12. While peacetime personnel may be fairly well trained in matters of military justice, wartime commanders who become such by virtue of rapid promotion are often entirely unsuited to perform the judicial function.
13. Commanders don't have the time to devote to matters of a judicial nature, and these matters are therefore not given adequate consideration.
14. The commander exercises his influence backed up by the fact that he promotes or recommends promotion, that he can reassign personnel to less pleasant duties, or have them transferred to distant stations, and that he makes out the efficiency reports of his subordinates.

RECOMMENDATIONS:

- * 1. The commander should be permitted to step in to reprimand or admonish a court for its carelessness, harshness, or prejudice.
2. The real accuser should be required to sign the charges.
3. Reprimand of a court should be forbidden.
4. Commander should not be the reviewing authority.
5. Court should come from outside commander's jurisdiction.
6. War Department should make a strong statement of policy and insist the commanders follow it.
7. The system of military justice should be divorced from command.

Comments by Committee Member on Part II D. (The Commander):

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[The following text is extremely faint and largely illegible. It appears to be a list of comments or a detailed report. Some faint words and phrases are visible, such as "The Commander", "The Committee", "The report", "The findings", "The conclusions", "The recommendations", "The evidence", "The facts", "The circumstances", "The situation", "The conditions", "The results", "The impact", "The significance", "The importance", "The value", "The cost", "The benefit", "The risk", "The danger", "The threat", "The opportunity", "The challenge", "The obstacle", "The barrier", "The hindrance", "The impediment", "The constraint", "The limitation", "The restriction", "The prohibition", "The ban", "The prohibition", "The restriction", "The limitation", "The constraint", "The impediment", "The hindrance", "The obstacle", "The challenge", "The opportunity", "The threat", "The danger", "The risk", "The benefit", "The cost", "The value", "The importance", "The significance", "The impact", "The results", "The conditions", "The circumstances", "The facts", "The evidence", "The conclusions", "The findings", "The report", "The Committee", "The Commander".]

E. ARTICLES OF WAR

1. General Comments

- a. The specified charges and specifications are, generally speaking, too vague.
- b. There is an absence of provisions enabling the accused to perfect his defense.
- c. There is no version of the writ of habeas corpus.
- d. There is no provision for punishment of officers who violate the rights of the accused.

2. RECOMMENDATIONS RELATIVE TO PARTICULAR ARTICLES OF WAR.

- a. AW 8: The law member must be a member of the Judge Advocate General's Department, or a lawyer, and must be present at least in the most serious or most difficult cases.
- b. AW 11: The Trial Judge Advocate and Defense Counsel must be members of the Judge Advocate General's Department, or lawyers, at least for General Courts-Martial.
- c. AW 14: Noncommissioned officers should be triable by Summary Court by order of officer authorized to appoint Special Courts.
- d. AW 22: Defense Counsel should have power to subpoena witnesses.
- e. AW 25: Depositions should be prohibited unless admitted by consent; they should be admissible on behalf of the accused in capital cases, as provided.
- f. AW 33: Record of trial should be authenticated by the Law Member.
- g. AW 35: Records of trial should be forwarded to the next higher authority, instead of to the appointing authority.
- h. AW 43: (votes required for conviction) should be clarified.
- i. AW 44: (publication of dismissal of officer) should be repealed.
- j. AW 48: All death sentences should require confirmation by the President.
- k. AW 50 $\frac{1}{2}$: Boards of Review should review all cases involving sentences of confinement of six months or more. Rehearing should be permitted when a published order case is held legally insufficient by a Board of Review.
- l. AW 69: (arrest or confinement) should be amended to permit restriction to limits.
- m. AW 70: (1) Report of investigating officer should be mandatory for special court cases as well as for general court cases.
(2) Reports of investigation should be passed on by a board before reference to trial.
- n. AW 74: Soldiers charged with civil felonies should be turned over to the civil authorities for trial.

- o. AW 75: The phrase "misbehavior before the enemy" should be defined.
- p. AW 83 & AW 84: (loss, damage or disposition of military property) should be combined and clarified.
- q. AW 85: (drunk on duty) should include Warrant Officers.
- r. AW 87 & AW 88: (personal interest in sale of provisions, and intimidation of persons bringing provisions) should be repealed as unnecessary.
- s. AW 91: (dueling) should be repealed as unnecessary.
- t. AW 92: (murder; rape) mandatory punishment should be lowered.
- u. AW 95: (conduct unbecoming an officer and gentleman) should be abolished, for it is generally used in conjunction with AW 96, and the verbiage, "unbecoming an officer and gentleman," which indicates that only officers are gentlemen, is improper and bad for morale. If the Article is retained, it should provide for proof that an officer's dishonored check passed for a valuable consideration before such officer can be convicted for passing such a check, under either this Article or AW 96. Nor should an officer be tried under this Article for failure to pay a gambling debt.
- v. AW 96: (catch-all provision) should be clarified, and
 - (1) The verbiage "all conduct of a nature to bring discredit upon the military service" should be eliminated.
 - (2) Provisions should be made for specific offenses frequently committed and not elsewhere covered.
- w. AW 104: (disciplinary powers of commanding officers)
 - (1) Increase the punishing power to include limited confinement and forfeiture of pay, thereby eliminating the necessity for any Summary Courts.
 - (2) Punishment should be made to wait on the decision on appeal.
 - (3) Punishing power should pertain to any officer who is authorized to exercise General Court-Martial jurisdiction.
 - (4) Power to assess forfeiture of pay for officers should permit assessment against Warrant Officers and Flight Officers, Majors, Lt. Colonels, and Colonels, and should be extended to permit forfeiture of one-half pay for two months.
 - (5) Maximum punishment for theft or sale or disposition of critical property in theaters of operations should be increased.
 - (6) After punishment under this Article twice in one year, any additional offense should make trial mandatory.
- x. AW 110: (certain Articles to be read and explained every six months to every soldier) should include the 24th AW (compulsory self-incrimination), the 97th AW (courts of inquiry), and the 121st AW (complaints of wrongs), and probably Articles of War numbers 17, 18, 22, 39, 40, 41, 104, and 111.

Comments by Committee Member on PART II E (Articles of War):

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F. MANUAL FOR COURTS-MARTIAL

1. General

- * a. The Manual is excellently written, but poorly applied.
- b. The Manual is too technical; it fails to emphasize purpose or personal responsibility.
- c. It is too technical to invite recourse to it by lay personnel.
- e. There is too much reliance on ancient precedents, such as Winthrop, and the rules of evidence relative to confessions, affidavits, and hearsay testimony are archaic.
- f. Treatment of policy is inadequate.

RECOMMENDATIONS:

1. The Manual should be redesigned as a lay explanation.
2. The Manual should be eliminated and the information contained therein should be redesigned to serve as annotations to the Articles of War.
3. Terminology such as "before the enemy," "voluntary and involuntary manslaughter," "statutory rape," "security violations," "wrongful dealings in currency," etc. should be clarified for the layman.
4. The accused should be afforded better treatment as to his right to interview witnesses and to obtain evidence on his behalf.
5. There should be a prohibition against the practice of allowing substantive amendments to the indictment in order to make it conform to proof, which prevents the accused from defending himself against the new charge.
6. There should be a prohibition against trial of an accused, charged with an offense specifically covered and defined by one of the Articles of War, under another catch-all provision to avoid the necessity of presenting certain proof.
7. There should be a prohibition against convictions in cases where the sole proof was the uncorroborated evidence of an accomplice.
8. The practice of permitting rulings of the Judge Advocate General to retroactively affect interpretations or procedure should be eliminated.
9. Decisions of the Judge Advocate General or the Boards of Review should not be allowed to contravene the Manual for Courts-Martial or the Articles of War.
10. Courts should be compelled to rule on motions and objections, and to follow the doctrine of stare-decisis.
11. Punishments should be entered on the individual's official record, irrespective of the source imposing such punishment - court or commanding officer.
12. There should be provision for a new trial in cases of newly discovered evidence or error in law, and for the restoration of commissions, and other losses which may have followed the original trial.

2. Recommendations on Specific Paragraphs of the Manual

- a. Par. 2 & Par. 11: As a result of the Yamashita trial, a re-valuation of military commissions is required.
- b. Par. 7: Clarification of the ambiguity relative to jurisdiction, including reference orders, is required.
- c. Par. 43: This provision should be changed to guarantee a Defense Counsel with qualifications equal to those of the Trial Judge Advocate.
- d. Par. 69b: Extend the doctrine of condonation to all military offenses and provide that where any soldier is committed to actual combat, with knowledge of pending charges, such act condones the charges and shall be entered in his record of service.
- e. Par. 70: (pleas of guilty) Except in the most serious cases, the plea of guilty should be accepted in lieu of trial, where two-thirds of the Court, and the Trial Judge Advocate, agree that the accused understands the import and consequences of his plea. Pronouncement of sentence should take into consideration the accused's cooperation.
- e. Par. 78a: (basis of findings, reasonable doubt, reasons for finding and acquittal) should include a statement of the presumption of innocence and that mere reference to trial is not evidence but merely indicates that a question exists for the court to decide.
- f. Par. 80: (sentencing) should include the factors to be taken into consideration before pronouncing sentence.
- g. Par. 87b: (reviewing authority) should bar the reviewing authority from reprimanding personnel who acted honestly.
- h. Par. 149: (manslaughter) the word "negligently" should be substituted for "willfully" in defining manslaughter as the result of gross negligence.
- i. Appendix 4: (forms) should omit unused forms and include forms of specifications for offenses frequently committed.

Comments by Committee Member on Part II F. (Manual for CM)

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Comments by Committee Member (cont'd):

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G. CONCLUSIONS

- * 1. That the present system of military justice is well suited to the task to be performed, and that the discrepancies to be found are matters of administration of the system, and are no different than similar discrepancies present in the administration of the functions of any given branch of our civil government.
2. "That the defects of the American system of military justice are basic, and require fundamental remedies; that they will not be solved merely by streamlining procedure, or by amending the Articles of War... "...that the principle of an independent and impartial system of military justice must be established. When that is done, the details can be worked out. Until it is done, no tinkering with court-martial procedure, no provision of mixed courts...no reorganization of the Judge Advocate General's Department, can do more than temporarily quell existing popular indignation..."
(Sidney Post Simpson)
3. That while the weaknesses of the present system of military justice may be in the application of procedure, and may be remedied only to a degree, because they reflect human frailties which can be reduced but not eliminated, the divorce of military justice from the chain of command would represent a powerful answer to the problem of the influence of the local commander, which is predominant along every step of the way, from the preferring of charges, through the investigation before trial, the trial itself, and up to review and appeal, and would also afford an opportunity to the succeeding agency of justice to provide trained legal personnel to administer the new system,
- * 4. "That the only purpose of an army is to win battles. All its adjuncts, even military justice must contribute to that end." (General McNeil, June 8, 1946) "The more essential differences between a military and civil criminal code grow out of the necessities of the military state and the special purposes which any military code is intended to serve." (General Crowder, February 7, 1916).. "Military law is founded on the idea of a departure from the civil law, and it seems to me a great error to suffer it to become a sacrifice to the principles of civil jurisprudence at variance with its object." (Judge Advocate General Lieber, 1879).
5. Despite the obvious differences between civil and criminal codes: "The most common contention advanced by the Army for control of the judicial system is that that control is necessary for the maintenance of discipline. However successful the Army might be in peacetime in maintaining discipline, in wartime it has

signally failed to develop an effective disciplinary system designed to produce fighting men, the only purpose for which an Army exists." (Henry S. Miller, 233 Broadway, New York City, 1946; Assistant Staff Judge Advocate, Governor's Island).

Comments by Committee Member on Part II G. (Conclusions):

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Comments by Committee Member (cont'd):

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APPENDIX A

LIST OF CONTRIBUTORS OF CONSTRUCTIVE CRITICISMS

- *William R. Bandy (Ex-M.P., Accident-Prevention Bureau, Manila.)
P. O. Box 1014 (Cites cases; divorce of MJ from command)
Austin 6, Texas
- Prof. James D. Barnett (Civilian tribunals)
University of Oregon
Eugene, Oregon
- J. F. Becker (Caste; incompetence of officers; failure of
I.G.)
243 Beach 121st St.
Belle Harbor, L. I., N. Y.
- Jules F. Bernard (Ex-Chief Clerk, JAG, U.K. Base)
Milani International (Variety of suggestions)
6 North Hamlin Avenue
Chicago 24, Illinois
- Joseph N. Berry (Illustrates injustices in own case at
West Point)
Berry Insurance Agency
Purdom Bldg.
Murray, Kentucky
- William D. Blackwell (Cases and suggestions)
3216 Tenth St. (Ex-Defense Counsel)
Gulfport, Mississippi
- *Bertram C. Bland (Served as Asst. Defense Counsel on a General
Court-Martial) (Memorandum reciting experi-
ences and specific cases) (Recommendations
and Suggestions)
128 Market Street
Newark 2, New Jersey
- *David G. Bleakely (Division and subdivision of offenses)
Merchants Nat'l Bank Bldg.
Cedar Rapids, Iowa
- *Harold M. Bode (SW Pacific: review of cases) (Suggestions)
1st Nat'l Bank Bldg.
Kenosha, Wisconsin
- *Robert Boyle (Letter containing experiences and recommenda-
tions - particularly the use of qualified
lawyers as defense counsels)
903 West 30th St.
Austin, Texas

Captain Harold J. Brown 1280 SCU, ROTC, CCNY 141st St. & Convent Ave. New York, N. Y.	(Recommends people who may be of help; ex-DC, LM, and SC) (Suggestions)
Honorable Paul Brown House of Representatives Washington, D. C.	(Forwarded opinion of Honorable J. Paul Stephens regarding the make-up of courts-martial)
*Charles Burlingham 27 William St. New York, N. Y.	(Recommends Honorable John Warren Hill, CJ Domestic Relations Court)
*Walter W. Burns Columbia Building Washington, D. C.	(Colonel, N.G., Retired) (Officers to testify on variety of matters)
*Ashley B. Carrick 15 Exchange Place Jersey City, N. J.	(TJA, DC, SJA Office) (CO) (Variety of suggestions)
Honorable Francis Case House of Representatives Washington, D. C.	(Encloses item from Congressional Record, on statistics by Lt. Colonel Robinson)
*Hon. Edwin K. Cheadle Asso. Justice, S.C. Helena, Montana	(NYU Law School Graduate; LM & DC in S.W. Pacific) (Variety of suggestions)
F. E. Cheney 738 8th Court West Birmingham, Ala.	(Ex-Vet of both wars) (Suggestions)
Kingsley M. Clarke 514 Iowa-Des Moines Bldg. Des Moines, Iowa	(EM, C&B Office; Lt., JAG) (Criticisms)
Harry Courtright Shelbyville, Ill.	(Ex-Officer; EM in 1st War) (Criticisms)
Allen R. Cozier Col., JAG, Reserve	(Divorce of military justice from command)
James W. Craig 364 Manship St. Jackson, Miss.	(Lt. Col., DC & TJA) (Ex-) (Criticisms and suggestions)
*A. B. Culbertson 1st Nat'l Bank Bldg. Ft. Worth, Texas	(Experience as civilian attorney in specific case; criticisms and suggestions)

*Robyn Dare (Basic fault is that military law provides rule by men rather than by law; too much influence on the part of the commanding officer) (Offers specific recommendations)
 1550 Rand Bldg.
 Buffalo 3, N.Y.

*Arthur A. Darrigand (Ex-DC & LM, AAF) (Criticisms and suggestions)
 516 Mayro Bldg.
 Utica 2, N. Y.

Peter C. Darwin (Ex-1st Sgt. and ct. reporter, both wars) (Personal experience in 1st War)
 1535 West 94th Place
 Los Angeles 44, Calif.

W. Bond Dashiell, Jr. (Criticisms and suggestions)
 (ltr to Armstrong)

Adrian E. Davis (Ex-G.I.) (Experience re bribery of ct, member by C.O. to insure conviction, etc.)
 Davis Engineering Wks
 304 E. 2nd St.
 Grand Island, Nebr.

*Charles E. Dierker (Army Field Clerk, WW I) (Criticisms, Specific Case, Recommendations)
 United States Attorney
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 Oklahoma City 1, Okla.

George L. Dieter, Lt. Col., TC (Pres. of CM) (Statistics and recommendations)
 ASF, 4th SC
 Ft. Benning, Ga.

*Arthur Q. Donigian (DC, Rev. Auth., & Adj.) (Ex-) (Recommendations)
 Silver Springs Road
 Ridgefield, Conn.

Capt. David J. Duff (Prison Officer) (Penology)
 H.Q. 390th M.P. Bn.
 APO 228, c/o PM
 New York, N.Y.

*Raymond S. Duitch (Ex-Capt., QMC, served as special court defense counsel, trial judge advocate, and president) (Letter reciting experiences) (Strongly upholds the army court-martial system)
 4317 Clingman
 Shreveport, La.

*Edward A. Dutton (Criticisms and recommendations)
 Suite 31, Commercial Bldg.
 Savannah, Ga.

*Hon. Henry W. Edgerton
U.S.C. of Appeals
Washington, D. C.

(Recommends Major Pasley)

Mr. Leon T. Ellison
121 E. Randolph St.
Havana, Ill.

(Provost Sgt., 8th A.V. ex-)
(Criticisms and recommendations)

Lt. Col. Perry C. Euchner
I.G. 13th Port
APO 228, c/o PM
New York, N. Y.

(I.G., Res. O.) (Criticisms; observes that
WP seems to ignore teachings of MJ)

*Irving C. Evers
591 Summit Avenue
Jersey City, N. J.

(4 $\frac{1}{2}$ yrs. mil. service) (Criticisms and
suggestions)

Major Daniel S. Feidt
U.S.A. Reserve
11420 Northwestern Bank Bldg.
Minneapolis 2, Minn.

(IM) (Independence from command;
influence of commander)

*Hon. Phillip Forman
U.S. District Ct. Judge
Post Office Bldg.
Trenton, N. J.

(Recommends Lt. Col. Manser)

*John A. Fulton
Suite 1805-26 Ky. Home
Life Building
Louisville, 2, Ky.

(9th AF; ex-member of all types of courts)
(Suggestions and criticisms)

*William B. Gannon
34 Maple St.
Summit, N. J.

(Ex-DC and JA) (Recommendations)

Mrs. Evelyn C. Gardner
1090 Freeman Ave.
Long Beach, Calif.

(Civilian employee in C.Z.; offers detailed
information on injustice in C.Z.)

Paul K. Gardner, Editor
The Nevada Legionnaire
Lovelock, Nevada

(Letter containing injustices which
allegedly occurred in Camp Claiborne, La.)

*Robert H. Gault, Editor,
Journal of Criminal Law &
Criminology,
Northwestern Univ. Law School,
Chicago 11, Ill.

(Recommends that psychiatrist be added to
Committee)

*Joseph Genser (Stanford Law School; Chief Clerk of Base Legal Office) (Criticisms and recommendations)
 413 10th St.
 Richmond, Calif.

*George L. Gisler (Navy: ex-DC, member of ct., and legal O.) (Failure to use trained personnel)
 825 Lathrop Bldg.
 Kansas City, Mo.

*Joseph A. Gladney (1st Sgt.) (ex-) (Own case of demand for board of inquiry and for apology)
 912 Louisiana Nat'l Bank
 Baton Rouge, La.

*Norton L. Goldsmith (Pilot, ex-Asst. J.A., LM, member of GC, etc.) (Criticisms)
 Marion E. Taylor Bldg.
 Louisville, Ky.

Lt. Col. Jack A. Goodman (Ex-DC) (Individual experience as unqualified DC, and recommendations)
 2767 Bryden Rd.,
 Columbus 9, Ohio

*Abraham Grenthal (Criticisms and suggestions, as requested by Judge Holtzoff)
 475 Fifth Avenue
 New York, N. Y.

*Mr. Anthony E. Grillo (Ex-DC and TJA) (1st Lt. ORC) (Criticisms and suggestions)
 153 Court St.
 New Haven, Conn.

*Mrs. Frances A. Hancock (Civilian employee in Post JA Office) (Criticisms and recommendations)
 Pittsburg, Texas

*Hon. Richard Hartshorne (WW 1; Ct. Martial Bds. for N.J. State Guard) (Criticisms and suggestions)
 Court of Common Pleas
 Newark, N. J.

*Major Fred N. Herr (Major JAGD) (Suggestions and criticisms)
 517 West College Ave.
 Jacksonville, Ill.

Frederick J. Hertz (3 yrs. Army legal dept.; criticisms and suggestions requested by Judge Thompson)
 134 S. La Salle St.
 Chicago, Ill.

*Pierson H. Hildreth (JAGD, ex-) (Criticisms and suggestions)
 Triangle Bldg.
 Amityville, Suffolk County
 New York

N. H. Hoffman (Company Clerk and Court Clerk)
81 Ellsworth Ave. (Personal experience and criticisms)
New Haven, Conn.

Robert N. Hoffman (Criticisms and suggestions)
T/Sgt AUS, 32406714

Brig. Gen. H. C. Holdridge (Retired) (Request to appear before
Chairman, Leg. Committee Committee; memo on abuses and recommendations,
Veterans' League of America particularly re a new court system)
3541 T St., N. W.
Washington, D. C.

*Judge Alexander Holtzoff, (Reflections)
District Court of the United
States for the District of
Columbia, Washington 1, D.C.

L. K. Homan, Lt. Col., FD (Discrepancies in enforcement of sentences
4C-640 Pentagon assessing fines)
Washington, D. C.

Major Alsa G. Howard (Commander in Chief of the Military Order of
507 West 113th St. the Liberty Bell) (Recommendations)
New York 25, N. Y. (Clippings)

Mr. Harold S. Hulbert, (Recommends addition of a psychiatrist to the
Associate Editor, Committee)
Journal of Criminal Law and
Criminology,
Northwestern University
Law School, Chicago 11, Ill.

Fay Ickes, (Criticisms)
Veterans' Center of
Macon County,
Decatur, Illinois

"Just a Vet" (Criticisms)
Glendale, Calif.

*Delmar Karlen (Ex-Capt., JAGD) (Submitted 2 articles - "The
120 Broadway Personal Factor in Military Justice" and
New York, N. Y. "Lawyers and Courts-Martial") (Offers to sub-
mit information on other studies he has made)

William Karp (Ex-Classification Officer and Chief Clinical
6574 Saunders St. Psychologist at a Disciplinary Barracks in the
Forest Hills, L.I., N.Y. Mid-West) (Suggests psychological and
psychiatric study of cases)

Austin M. Kellam (Suggests addition of enlisted men into
22 Beethoven St. the composition of courts-martial).
Binghampton, N. Y.

Jack Korshak (Article containing 16 suggestions concerning
1720 Chase Ave. Army General Courts-Martial)
Chicago, Ill.

*James B. Lake, Jr. (Capt., USMC (ret.) (Letter containing
37 Ward Ave. suggestions)
Rumson, N. J.

Paul M. La Rue (Ex-Pvt.) (Caste; criticisms, suggestions;
3350 Disston St. and experiences)
Philadelphia, Pa.

*Jacob M. Lashly (3-page memorandum on visit to Scott Field
705 Olive St. where he attended 2 court-martial trials)
St. Louis, Mo.

Henry D. Le Cerff (Letter containing criticisms)
336 S. Center St.
Orange, N. J.

*John E. Lee (Letter containing recommendations)

Eugene E. Lefkowitz, (Letter containing specific suggestions)
Chairman, Military Affairs
Committee, Norman Berson Chapter
of Flatbush American
Veterans Committee,
154 Nassau Street,
New York 7, N. Y.

Godfrey Lehman (Ex-serviceman) (Served as a member of a
263 Park Avenue special court-martial) (Criticisms and
Elberon, N. J. experiences - stressing petty injustices)
(Offers additional written or oral testimony)

Mrs. Lerzor (?) (Signs letter "Heart Broken Mother" - no
address) (Criticisms)

*Julian Liberman (Letter containing suggestions on procedure -
1141 Broadway stresses lack of legally-trained officers in
New York, N. Y. military courts)

*Richard W. Linton (Served for 3 years in Office of the Staff
324 Penn Street Judge Advocate, Cairo) (Experiences and
Huntingdon, Pa. specific suggestions)

- H. A. Long
1706 N. La Salle St.
Chicago, Ill. (Ex-Major AC) (Experience on a court-martial)
(Criticisms and suggestions)
- *Edward Clark Lukens
1528 Walnut St.
Philadelphia 2, Pa. (Letter to Mr. Joseph W. Henderson) (Sug-
gestions and recommendations - basic difficulty
is failure of professional officers to dis-
tinguish between justice and discipline)
(Recommends use of professional men)
- *Nathan Wm. MacChesney
30 N. La Salle St.
Chicago 2, Ill. (Experiences in World War I and II - Judge
Advocate in Illinois National Guard and
member of a general travelling court-martial.
Has made a study of British, Canadian, French,
and German systems) (Suggestions)
- *Harper Macfarlane
Alamo National Bldg.
San Antonio 5, Texas (Ex-Major; various experience in courts-
martial) (Against military offenders being
tried by Civilian Courts) (Recommends ex-
pansion of JAG Dept. to handle all legal
affairs)
- Thomas F. Maher, Registrar
Georgetown University
Washington 7, D. C. (Ex-Lt. - served as Defense Counsel and Trial
Judge Advocate on both General and Special
Courts) (Letter citing experiences and
criticising lack of proper legal procedure)
(Offers more information, if requested)
- *Alexander H. Martin, Jr.
505 Prospect-Fourth Bldg.
Cleveland 15, Ohio (Criticisms and recommendations)
- Robert S. Mayo
1425 Hillcrest Road
Lancaster, Pa. (Ex-Major, U.S.M.C.R.) (Experiences and
recommendations)
- William M. McBride
The Herald-News
140 Prospect St.
Passaic, N. J. (Experiences) (Recommends a lawyer named
Hall in Durham, N.C. - Major in the Judge
Advocate General's Department) (Enclosed
editorial which appeared in Herald-News)
- *Everett C. McKeage
2070 Pacific Avenue
San Francisco, Calif. (Experiences in World War I; Ex-Capt. in
Reserve Corps of Adjutant General's Dept.)
(Criticisms and recommendations - suggests that
the armed forces should be subjected to the
rules of government applicable to our civil
institutions)
- *Everett C. McKeage - (Additional recommendations)
Letter of July 22, 1946 to supplement remarks (see above) in letter of
June 26, 1946.

Maurice J. McKeown	(7-page memorandum containing criticisms and suggestions)
Joseph H. McPhillips 79th Field Artillery Group APO 339, c/o PM New York, N. Y.	(Ex-Sgt.) (Suggests men from the JAGD make periodic stop-overs at Corps or similar headquarters and hear whatever cases have been placed on the docket - other specific recommendations)
*Aaron A. Melniker 26 Journal Square Jersey City 6, N. J.	(Experience in Office of JAG) (Letter outlining specific suggestions and recommendations)
*Aaron A. Melniker (Letter dated July 26, 1946 to supplement above)	(Points out there is no provision in the manual for a new trial in case of newly discovered evidence or for error in law)
*Richard L. Merrick 640 Woodward Bldg. Washington 4, D. C.	(Served in the JAGD during World War I) (Criticisms and suggestions)
*Henry S. Miller 233 Broadway New York 7, N. Y.	(Asst. Staff Judge Advocate on Governors Island, N.Y.) (30-page memorandum on "Comments on the Administration of Military Justice")
William Moxley, Jr. 72 W. 20th St. Eugene, Oregon	(Ex-Sgt.) (Letter containing suggestions)
*James B. Murphy 1206 Palmetto Bldg. Columbia, S. C.	(Ex-Colonel) (4 years in Office of the JAG) (Letter containing statistics-another containing criticisms and suggestions) (Recommends Brig. Gen. Ernest H. Burt for more information)
*Carl Nystrom Decorah, Iowa	(Service in JAG Dept.) (Criticises control which the officer exercising general court-martial jurisdiction has over the Court, etc.) (Specific recommendations)
*Joseph F. O'Connell 812 Barristers Hall Boston, Mass.	(Letter containing recommendations)
*Henry B. Oestreich	(Ex-Major, Air Corps) (11-page memorandum criticising court-martial procedure and offering suggestions) (Recommends use of Medical Dept. to handle Section VIII cases)
Lester B. Orfield 237 Aldine Ave. Chicago, Ill.	(Clippings from THE NATION - including article entitled "Justice on a Drumhead")

- George A. Paddock, Jr.,
Casualty & Surety Sales
Course, The Aetna Casualty
and Surety Company,
Hartford, Conn. (3 years as an officer in the Adjutant General's
Dept. - service on the general and special
court-martial) (Letter containing criticisms
and suggestions, including suggestions from ex-
servicemen in his class)
- *Constantine N. Perkins
1306 S. Sycamore Ave.
Los Angeles, Calif. (Letter containing 3 articles printed in the
Los Angeles Daily Journal) (Criticisms
appear to be directed at the Navy)
- *Wendell A. Peterson
First National Bank Bldg.
Hudson, Wis. (Experience in general court-martial cases)
(Recommends wider use of attorneys)
- *Jack Pope,
909-911 Medical Professional
Building,
Corpus Christi, Texas (Letter containing criticisms and booklet
written by him entitled "Tragedy of Errors"
which, according to Mr. Pope "discloses only
a few of the glaring inequities of the Navy
caste system")
- *Bill Prewett,
512 Medical-Professional
Building,
Corpus Christi, Texas (Criticisms and suggestions)
- *Joseph Quittner
36 West 44th Street
New York 18, N. Y. (Lt. Col. in Military Intelligence Reserve)
(Submitted an opinion by Judge Clancy on the
power of the Army to revoke the discharge of a
soldier alleged to have been procured by
fraud) (Letter lists 3 points in court-martial
proceedings which require attention)
- *Max Radin
University of California
School of Jurisprudence
Berkeley, Calif. (Submitted article written by a Mr. Stumph)
(Recommended a study of the French Code of
Military Justice)
- *Sgt. Harry G. Ragovin
Post No. 5,
Jewish War Veterans of the U.S.
785 DeKalb Avenue
Brooklyn, N. Y. (Submitted memorandum entitled "An Army-Court
Martial - Fundamentally Unsound, Undemocratic,
and Unfair.")
- Grover C. Ralston
Board of Park Commissioners
Lawton, Okla. (Ex-Major - AG Reserve) (Submitted article
written by Jack Kofoed which appeared in the
"Daily Oklahoman") (Criticisms, cases, and
suggestions)

Alexander Raymond General Delivery Red Bank, New Jersey	(Criticisms of treatment of civilian employees in Army)
Edward Reed 4921 Nevada Street Fresno, Calif.	(Ex-Sgt. 165th Gen. Hosp.) (Cites own case) (Criticisms - particularly lack of representa- tion)
*Stephen Reville, Jr. 70 Pine Street New York 5, N. Y.	(Memorandum containing recommendations)
George Reynolds 1316 - 5 $\frac{1}{2}$ Avenue Rock Island, Ill.	(Ex-Sgt.) (Letter relating alleged injustices and criticisms)
*Harold Rice Neligh, Nebraska	(Ex-Sgt.) (Criticisms - specific instances) (Offers to furnish specific information on alleged injustices - dates, names, places, etc)
*LeRoy E. Rodman 150 Broadway New York 7, N. Y.	(Letter citing experiences and containing sug- gestions and recommendations) (Military justice system does not provide for an independent judiciary)
*U. M. Rose Dashko Building Hobbs, New Mexico	(Ex-Army Judge Advocate) (5-page article urging representation by legally-trained men; using lawyers to more advantage in the army; divorcing military justice from command)
*John Rosenbaum North Beverlic Road Troy Hills, N. J.	(4-page memorandum containing criticisms and recommendations - gives facts on his son's experience with the court-martial system)
*Herbert E. Rosenberg 233 Broadway New York, N. Y.	(Ex-Lt.; experience in courts-martial) (Memorandum containing criticisms and recommendations)
William B. Ruggles Editor, The Dallas Morning News, P.O. Box 5237 Dallas 2, Texas	(Letter recommending that penalties be clearly set forth and decided by the discretion of the court and not dictated by higher authorities) (Editorial from The Dallas Morning News)
Stephen C. Rurtle (?), Jr. 7 No'way Bronxville, N. Y.	(Criticisms - possibility of failure of en- listment program as a result of alleged injustices)
*V. J. Sacco Assistant U. S. Attorney Hartford 1, Conn.	(Letter setting forth 5 specific recommenda- tions - divorcing of court-martial procedure from the command function; broader use of the Judge Advocate General's Department, etc.)

- *Samuel Schenker
Hotel Maryland Bldg.
Annapolis, Md. (Ex-Sgt.) (Letter containing criticisms and recommendations - particularly lack of legally-trained representation; dictatorial attitude of Head of Command, etc.)
- *Leo D. Schwarz
9 Clinton St.
Newark 2, N. J. (Letter criticising the mere fining of the officers in the Lichfield case) (Other criticisms and suggestions) (Recommends a judiciary system separate and apart from the Army for the trial of all military offenses)
- *Jay W. Scovel
418 Citizens Nat'l Bank Bldg.
Independence, Kansas (Ex-Lt. Col. in the JAGD) (Suggests contacting former officers in the Judge Advocate General's Office and in the field for more specific information)
- Will Shafroth
U. S. Supreme Court Bldg.
Washington, D. C. (Submitted article by Mr. Edwin F. Woodland of Cleveland which appeared in THE LEGAL RECORD of Feb. 14, 1946; article states that most serious fault is unlimited authority of Commanding Officer)
- *Irving R. Shull
1600 Walnut St.
Philadelphia 2, Pa. (Ex-serviceman) (Lack of legally trained personnel; caste; influence of rank)
- *Hugh M. Simborg
228 N. La Salle St.
Chicago, Ill. (Ex-Major, AC - post judge advocate in 2nd Air Force) (Letter containing 9 specific suggestions) (Articles which appeared in the Chicago Daily news(?) (Copy of letter to the Editor, Chicago Daily News)
- *Honorable Gordon Simpson
Associate Justice
Supreme Court
Austin, Texas (Letter suggesting various authorities in the Judge Advocate General's Department)
- *Sidney Post Simpson
167 West 60th St.
New York 23, N. Y. (Letters and memorandum including a study of the British system containing specific recommendations)
- *Professor James Barclay Smith
University of Kansas
The School of Law
Lawrence, Kansas (Letter containing criticisms and recommendations) (Correspondence with Daniel S. Feidt, Esq. of Minneapolis)
- John R. Snively
401 W. State St.
Rockford, Ill. (Forwarded editorial from the Rockford Register-Republic on "Army Justice")
- *Rudolph Sobernheim
30 Pine St.
New York, N. Y. (Submitted memorandum entitled "Changes in Courts-Martial Administration - Proposals and Comments" prepared by Rudolph Sobernheim, Delmar Karlen, Edward S. Hedington, Alan Nordlinger, Robert A. Rockhill and Richard Kent)

H. Henry Southworth
1763 Juno Avenue
St. Paul 5, Minn. (Ex-serviceman) (Letter containing criticisms and recommendations)

Felix F. Stumpf
531 Cabrillo St.
San Francisc, Calif. (Submitted 19-page memorandum entitled "Military Justice During World War II" - recommends a system of trial courts operating as an independent judiciary entirely apart from military channels)

*Captain Maxwell A. Sturtz,
New York University,
School of Law,
Washington Square,
New York 3, N. Y. (Memorandum entitled "Reflections and Recommendations on the Proposed Revision of the U. S. Army Courts-Martial System")

*Ray C. Thomas
504 Broadway
Gary, Indiana (Served in the Judge Advocate General's Department) (Letter containing recommendations)

*Milton P. Thomson
83-09 35th Avenue
Jackson Heights, N. Y. (N.Y.U. Law School Graduate) (Ex-Major, JAGD) (Letter outlining 10 specific recommendations)

*Captain Louis N. Tischler
HWS, AGERD #1
Camp Pickett, Virginia (Defense counsel and trial judge advocate; defends present system of military law)

*George F. Trowbridge
Cohen, Cole, Weiss, & Wharton
61 Broadway
New York 6, N. Y. (Ex-communications Sgt.) (Letter containing criticisms of and suggestions for the Special and Summary courts)

*Lewis H. Ulman
2456 20th St., N. W.
Washington 9, D. C. (Service with the Office of the Staff Judge Advocate in France) (Submitted memorandum stressing Army caste system and citing specific cases; recommendations)

*William A. Vassar
Chandler, Okla. (Ex-Pvt.) (Letter containing criticisms and suggestions)

Capt. Owen F. Walker, JAGD
Allerton Hotel
Chicago, Ill. (Recommends two authorities - Warren H. Farr, Major, JAGD, and Fletcher Reed Andrews)

*Leonard M. Wallstein, Jr.
233 Broadway
New York, N. Y. (Ex-Major, JAGD) (42-page memorandum entitled "Recommendations for the Revision of the Army's Court-Martial System" and memorandum entitled "Principles for the Revision of the Army System of Military Justice")

<p>*James R. Walter Paris, Arkansas</p>	<p>(Ex-serviceman) (Defends present court-martial system)</p>
<p>*D. E. Watson Farmers National Bank Bldg. Salina, Kansas</p>	<p>(Letters setting forth criticisms and recommendations - particularly urging the recognition of the legal profession by the Army)</p>
<p>*Louis Weiner 39 Cortlandt St. New York, N. Y.</p>	<p>(Memorandum entitled "Changes Suggested in Court-Martial Practice and Procedure") (Criticises lack of administrative experience and training of officers) (Urges use of experienced lawyers in all courts and appeal processes)</p>
<p>H. Wilding-White Metropolitan Club 17th and H St., N.W. Washington, D. C.</p>	<p>(Served with the Judge Advocate's Department in England) (Letter containing criticisms and stressing severity of penalties)</p>
<p>*Edward H. Young Hq. U. S. Army Forces, China, Office of the Theater Judge Advocate, APO 971 c/o PM San Francisco, Calif.</p>	<p>(Col. JAGD) (Letter discussing war crime trials and his duties in China) (Chart showing the principal functions of the China Theater Judge Advocate Section)</p>