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Bicentennial Issue

4 July, 1976

The Judge Advocate JOURNAL



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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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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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Lawyers Qua Lawyers in the Armed Forces of the United States Viewed at the Bicentennium

Beginning at Hampton Court in 1604, shortly after his accession to the English throne, and on other occasions when presented with requests for establishment of presbyterian or congregational, as opposed to episcopal, forms of church organization, James I was wont to respond: "No bishop; no king!" The correctness of his premises was demonstrated some forty-five years later, when, in the early afternoon of 30 January 1649, the head of his son, Charles I, fell on a scaffold in front of Whitehall.

Charles I died because victorious soldiers of the Long Parliament were not paid off and disbanded at the end of the First Civil War, and employed their idle time in theological and politico-philosophical discussion and debate. There emerged a consensus that the soldiers were divinely chosen instruments to destroy forces of evil and establish an egalitarian Chris-

tian order. The King, as the leader of the forces they had defeated, began to emerge as a demonic power. The concept of Charles I, as the embodiment of all evil, was strengthened in the Second Civil War, in which the New Model Army triumphed over the opposition of virtually every other faction in the country. When that War was won in latter 1648, the rank and file—who in their self-image as chosen instruments to carry out the will of God could not be thwarted or diverted by their officers—had Colonel Thomas Pride take a group of them to the House of Commons, from which all members were excluded save for 53-56 felt to be completely subservient to the will of the soldiers. This group—"the Rump"—enacted on their own authority a measure constituting a High Court of Justice for the trial of the King, all proceedings to be completed within 30 days of January 6, 1649, the date of enactment.

* Prepared by Captain Homer A. Walkup for the Special Committee of the Judge Advocates Association to Plan for the Observance of the Bicentennial of the Revolutionary War.

The members of the Special Committee are:

Colonel William L. Shaw, JAGC, AUS (Ret.), Chairman
Captain Homer A. Walkup, JAGC, USNR (Ret.), Vice-Chairman
Colonel Jerry E. Conner, USAF
Colonel Alton H. Harvey, JAGC, USA
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The death of the King posed problems of legitimacy regarding acts of officers, civil and military and naval. Until the axe fell, there was available the fiction that executive acts could be performed in the name of the King, during his absence due to having been ill advised by evil persons; upon the King's being returned to sound advisers he would ratify and legalize all proper actions taken during his absence. Now there could be no return of the King. The only remnant of elected authority still functioning was the Rump, which proceeded forthwith to enact the abolition of the House of Lords. The Rump Commons became the Rump Parliament which was The Commonwealth, 1649-1653. In April, 1653, Cromwell sent the members home, but the actions of immediate concern at this point took place prior to that time.

A high priority problem confronting the Rump in 1649 was the establishment of control of the Navy. During the second Civil War there were strong Royalist sympathies in the Navy. An Army officer sent as Deputy Fleet Commander by the Parliament was not permitted to board the flag ship by the crew. The preceding Deputy was then reappointed, who defected to the Royalist naval force in Holland, followed by some eleven ships. In August, 1648, the Parliament enacted an ordinance directing that the Earl of Warwick, the Lord High Admiral, should no longer forbear ". . . such Punishment as may be condignly inflicted . . . ac-

ording to the Civil Laws, Law Martial, and Customs of the Sea, and according to such Laws and Ordinances as shall by him the said Lord High Admiral, and his Council of War . . . be concluded and agreed upon . . . to be punished by Death or otherwise, according to their Demerits, and shall be due unto them by the said Laws and Ordinances." A corrective ordinance, two days later "ordered and Ordained, That the Lord Admiral, with his Council of War . . . be and are hereby authorized to agree upon such Laws and Ordinances . . . for Trial of Offenders by Martial Law; and the same to put in Execution accordingly." An Act of 13 February 1649 constituted a "Counsell of State" which was empowered "to order and direct, all the Militias and forces both by Sea and Land . . ." The Council of State was authorized to commission officers, but nothing was said about its having power to establish or approve disciplinary articles for land or naval forces. The Council of State consisted of 41 named persons. Five would appear to have been peers; three, court justices; and thirty-three of the members of the Rump. An Act of 23 February repealed the power given to the Earl of Warwick by the August, 1648, Act, and enacted and ordained "That the Counsel of State appointed by Authority of Parliament shall have and exercise all such Power, Jurisdiction and Authority, and are hereby authorized and enabled to do and execute all such things as pertain to the Office of Lord High

Admiral . . ." Note that the power which it was considered necessary to enact a corrective Act in 1648 to confer upon Warwick was now repealed; but that neither the Act establishing the Council of State nor that conferring the powers of Lord High Admiral upon the Council, explicitly mentioned power to exercise martial law and prescribe articles therefor.

On the following day, 24 February, an Act referred to the power of the Council of State and appointed Robert Blake, Edward Popham, and Richard Dean—each a colonel—"Commissioners for the immediate ordering and commanding of the Fleet . . . shall have full power and authority as Admiral and General of the said Fleet . . . And themselves from time to time shall observe such Orders and Directions as they shall receive from the Parliament, or from the said Council of State; and this power to commence from the . . . [23rd] . . . day of February, and to continue unto the first day of March, 1649. And that the said Commissioners or any two of them, during the space aforesaid, have and shall have the power of Martial Law over all persons belonging to the said Fleet under their command; and shall be authorized to exercise and execute the same, for the better ordering and government of the said Fleet, according to such Rules and Articles as shall be given, allowed, or approved for that purpose by the Parliament, and according to the general Customs and Laws of the Sea. . ."

The Council of State was reconstituted 13 February 1650, but only until 17 February 1650. Powers respecting militias and forces by sea and land were as stated in the Act of the previous year. On 13 February 1651 it was enacted that the Council of State appointed "for the year ensuing" should have the authority to do all things pertaining to the Office of Lord High Admiral, as provided in the previous Act repealing the powers formerly given and transferring it to the Council of State. This should continue in force until 1 July 1651. On 28 February 1651, Blake, Popham, and Dean were appointed and empowered as before from 23 February 1650 until 1 March 1651.

The Naval History of Clowes indicates that a Committee of the Rump, consisting of John Bradshaw, Chairman of the Council of State, Bulstrode Whitelocke, and Algernon Sidney, prompted by Blake's request for better authority to deal with faint-hearted captains, in December, 1652, revised Naval Articles prepared under the aegis of Warwick, read them to the Council of State, and that such Articles were "passed" on the 25th of December 1652. These are said to have been substantially the same thirty-six Articles which were later enacted as the Naval Discipline Act of 1661, shortly after the Restoration.

The explanation of the bizarre legislative enactments pertaining to the Navy and its command is that after the experiences of 1648, with both mutiny and defection of high

commanders in the Navy, and with Pride's Purge by Army troops, it was not desired to set up long-term statutorily authorized forces which might seize power by coups, impress opponents into the Navy, and exercise court-martial jurisdiction. By limiting the prospective statutory authority to a few days only, and then making a subsequent retroactive grant, all that was done in the meantime was validated, but one contemplating insurrection could point to no current charter of authority. The Council of State, having the power of the Lord High Admiral could serve as a counterforce in the event of suspected conspiracy by the commissioners in actual command of the Fleet.

Blake, Popham, and Dean were largely unknown quantities when this legislative shell game commenced. When Blake proved to be establishing a record as one of the all-time greatest sea commanders in history, his requests were accorded respect. His request for Parliamentary approval of disciplinary articles, made in latter 1652, during the first six months of the First Dutch War, was thoroughly warranted by a recent combat reverse, but came at a bad time from a political standpoint. Any hint of imposing more stringent controls or deprivation of perquisites with respect to the Army was out of the question; and open proposal of specific disciplinary articles to govern the Navy would inevitably be closely scrutinized by soldiers with the thought that they too should be governed by Acts of

the Parliament, which they could control, rather than traditional laws of war as interpreted by their officers. Cromwell had, a year before, put down invading Scottish forces led by the son and heir of Charles I. He was unenthusiastic about the War with the Dutch, who were then one of the few other Protestant major forces. As a non-lawyer, Cromwell would not have been sensitive to the feeling of need for positive legal authority to charge offenses, conduct trials, and execute sentences sometimes extending to death.

This welter was apparently resolved by the legerdemain of having Articles studied and revised by the Parliamentary Committee of three (Bradshaw and Whitelocke being lawyers), and read to and later approved by the Council of State as an exercise of the powers of the Lord High Admiral conferred upon the Council. This was done without open hearings and without the making of any public record of the action, and accordingly might later be either attested or denied, as expediency might dictate.

Amid these shabbily obfuscated maneuverings was born the principle of legislative prescription of rules for the government and regulation of the Armed Forces. Prompt legitimation of the principle by enacting, immediately following the Restoration, the thirty-six Articles as approved by the Council of State under the authority of explicit legislation, made this one of the gains of the Parliament from the Civil Wars and the Commonwealth.

The enactment of Articles of War following the Restoration, in a similar manner to the enactment of the Naval Articles, was advocated by no one. The emphasis at that time was upon disbanding the Army, not perfecting the authority for its regulation. It was contemplated at that time that future needs for land forces would be met by the militia, which was subject to local law, not martial law, hence no articles for land forces were needed. When, a quarter of a century later, incident to the Glorious Revolution of 1688-89, a standing army was reestablished, Articles of War were enacted in the form of a Mutiny Act, effective for a limited future term. Similarly temporarily effective Mutiny Acts were periodically enacted thereafter, usually at about two-year intervals. This continued until and after the time of the American Revolution, and into the Nineteenth Century.

Hence, as James I said "No bishop; no King," perhaps we should say, "No Commonwealth, no judge advocate!" For there can be no judge advocate in anything other than a ceremonial sense until there are standards of conduct prescribed in advance by an authority other than the executive. Had the 1652

Naval Articles not been approved and used successfully by Blake, it is probable that after the Restoration the previous practice of ordering disciplinary rules by military and naval commanders would have been resumed. Had the 1652 Articles been formally enacted by the Rump Parliament, there is a degree of probability that they might have been disowned in consideration of their source, without regard to their merit, and regulation of armed forces thereafter deemed to be a matter of no proper concern to legislative bodies.

The full literal meaning—to say nothing of implications—of the principle of limitations upon executive authority through legislative prescription of armed forces regulations, was not fully and universally apprehended in 1661, in 1689, in 1776, in 1789, in 1800, or in 1806. Each of those dates, however, marked a forward progression in the evolution toward government of armed forces by law rather than executive fiat.

The articles which follow discuss the developments in the various branches of the Armed Forces of the United States of the organizations of professional lawyers engaged in furthering the evolution born out of revolution.



History of the Judge Advocate General's Corps, United States Army

Prepared by The Judge Advocate General's School, U.S. Army
Charlottesville, Virginia

The Judge Advocate General's Corps has had a long and varied history in its nearly two-hundred years of existence. The office of Judge Advocate General was the first legal position to be established under the authority of the United States, even predating the offices of Chief Justice and Attorney General. Its origin is practically contemporaneous with the adoption of a national military code, and can be traced to the very first years of the Republic.

The Revolutionary Period (1775-1789)

History has been said to repeat itself. During the English civil war of the 17th century, the opposing forces of the King and Parliament were said to have been governed by the same military code. In 1755 a similar occurrence took place in this country. At that time, Gage's and Burgoyne's "Ministerial Army" was governed by the British Mutiny Act and Articles of War. The colonies, with an upcoming military force of some 184,000 to 250,000, needed a body of law for the government of their own army. The Continental Congress could find no military code better suited to its requirements than the British

Articles. Accordingly, on June 30, 1775, the first 69 "Articles of War" were enacted. Shortly thereafter, General George Washington took command of what was to become the Continental Army. And on the 29th of July, William Tudor, a prominent Boston lawyer and law pupil of John Adams, was elected by Congress to the position of Judge Advocate of the Army, a post created that same day. In January 1776, "That no mistake in regard to the said articles may happen," the Judge Advocate of the Army of the United Colonies was directed to countersign each copy of the new articles of war. Some 37 days after those same colonies became the United States of America, Tudor was given the rank of lieutenant colonel. The title of Judge Advocate General was attached to this office on August 10, 1776. The amended Articles of War, adopted on September 20, 1776, by the Revolutionary Congress provided that, "The Judge Advocate General, or some person deputed by him, shall prosecute in the name of the United States of America."

The legislation of September 20 also brought revision to the original Articles of War. The result, known as the second Continental Articles

of War, was largely due to the efforts of John Adams' Committee of Congress. Certain of the 1776 revisions were suggested by General Washington, who submitted his amendments through Colonel Tudor to the Adams Committee. Adams, who personally favored adoption of the British Articles *totidem verbis*, was able to persuade his fellow committeeman Thomas Jefferson to agree with him in reporting this view to Congress. And the resulting enactment, except for minor changes, continued to reflect the influence of our Mother country on American military discipline.

Tudor resigned as Judge Advocate General on April 9, 1777, but did remain in the military service for another year. The distinguished New York jurist, John Laurance, next assumed the duties of Judge Advocate General on April 10, 1777. Before his appointment, Laurance had served in the field with the Revolutionary Army, both as a regimental and staff officer. He prosecuted Major General Benedict Arnold for various military transgressions, and a year later, acted as judge advocate of the board of officers which investigated the celebrated case of Major John Andre, Adjutant General of the British Army and chief of Sir Henry Clinton's intelligence service, who conspired with the embittered Arnold for the surrender of West Point. After the war, Colonel Laurance had a notable career as a federal district judge, member of the House of Representatives and the Senate. During Laurance's tour

of duty, the Army's legal staff grew to include the Judge Advocate General, two deputies at General Headquarters for the Army at large, and one for each separate army and territorial department. Some of the judge advocates were given the rank and pay of captains by Congressional resolution dated June 6, 1777, and when the emoluments of the Judge Advocate General were raised in 1779 to that of colonel, the other judge advocates received an increase to the grade of lieutenant colonel. After Laurance resigned his post as Judge Advocate General in the spring of 1782, the office went begging for lack of takers. On July 9, 1782, James Innis was elected to fill the vacancy; two days later the pay and subsistence were increased. Nevertheless, Mr. Innis failed to signify his acceptance of the offer, and instead intimated to his friends that he would decline. Consequently, on the 18th of September, that year, Congress elected Major Richard Howell to be Judge Advocate General. By the first of October, Howell had declined the office. The search for Laurance's successor finally ended with the appointment of the man who had previously served as his principal deputy: Lieutenant Thomas Edwards of the Ninth Massachusetts Regiment. Edwards served from the fall of 1782 until November 1783, and so far as appears from the Journals of Congress, he was the last incumbent in the office of "Judge Advocate" or "Judge Advocate General of the Army" as it was variously desig-

nated prior to the adoption of the Constitution. In 1784 the Army of the United States was reduced to less than one hundred officers and men, and it was not until commencement of the federal government that any great interest was again taken in military matters.

Among those who served as judge advocates during the Revolutionary War were several individuals of historical prominence. Most familiar was Captain John Marshall, 15th Virginia Regiment, who served as Chief Justice of the United States Supreme Court for 34 years. In addition, there was Major John Taylor, another Virginia politician of note, and Major Joseph Bloomfield, who served as New Jersey governor and Congressman.

The Early Constitutional Period (1789-1821)

The Articles of 1776 continued in force until the adoption of the Constitution, but did undergo various interim amendments mainly concerning themselves with redress of wrongs, general courts-martial procedure for the "small detachment," the power of pardon, and mitigation of sentences.

In 1792, the Army was organized into the Legion of the United States. In July of 1794, Lieutenant Campbell Smith of the 4th Infantry was appointed "Judge Marshal and Advocate General to the Legion of the United States." Smith's appointment was terminated by another military reorganization calling for "one Judge Advocate,

who shall be taken from the commissioned officers of the line." However, Smith, then a captain, was appointed to this post in April of 1801, and continued to hold the office until it ceased to exist by force of the Act of March 16, 1802. That legislation reduced the line of the Army to one regiment of artillery and two of infantry. The Articles of 1806—101 in number—were adopted after Congress realized its new constitutional government rendered desirable a complete revision of the code. These articles superseded all previous enactments on the subject and, except for certain amendments, remained in force for 68 years.

As the threat of war with England increased, the Army correspondingly grew. The Act of January 11, 1812, provided for the appointment of one Judge Advocate per division, who was to have the same pay and emoluments as a major of infantry; or if appointed from the line of the Army, he received an additional monthly pay of thirty dollars and the same forage allowance as a major of infantry. The first appointment under the 1812 Act was made in September of that year; more than a year after its passage, a half dozen Judge Advocates received appointments. In 1814, five additional officers entered upon their duties, one of whom was Henry Wheaton, whose distinguished legal career included positions as Reporter to the United States Supreme Court, Professor of Law at Harvard, and American Minister to Denmark and Prussia.

With passage of the Act of April 24, 1816 "for reorganizing the general staff" the number of Judge Advocates per division was increased to three, with the same rank, pay and perquisites as before. Four additional Judge Advocates were appointed between this time and 1818. And although the number of JA's per division was again reduced to one in 1818—with pay and emoluments of a topographical engineer, i.e., major of cavalry—a fifth Judge Advocate was appointed. He proved to be the last appointee before 1821 when the Act of March 2 called for the discontinuance of the office effective June 1 of that year.

The Years of Oblivion and Rebirth (1821-1861)

The Army had been reduced in number from 62,674 officers and men, to 12,383 by the Act of March 3, 1815. In addition to its lack of provision for Judge Advocates, the March 2 Act of 1821 further reduced the number of men in service to 6,126. The remaining two JA's were honorably discharged on the first of June 1821, and the Army did not have a statutory full-time Judge Advocate again for some 28 years. Thereafter, line officers were usually appointed on an *ad hoc* basis for judge advocate duties in general courts-martial; others were detailed as acting judge advocates of the two major territorial commands.

Between 1821 and 1849 there were no statutory enactments relating to Judge Advocates. The

military legal structures and administration of the Army was given no recognition on the War Department General Staff, although that body included some ten staff-departments and staff-corps. Yet the Army Regulations of 1835 stated: "The discipline and reputation, of the Army, are deeply involved in the manner in which military courts are conducted, and justice administered." Additionally, the regulations emphasized that officers who sat on courts-martial must "apply themselves diligently to the acquirement of a complete knowledge of military laws; to make themselves perfectly acquainted with all orders and regulations, and with the practice of military courts."

In 1842, because of the "great improvement which has been made in the facility of intercourse between the seat of government and the most remote parts of the Union," the War Department discontinued its former practice wherein the country was divided into two military divisions. The departments that had previously been fragmentized were to report directly to Washington, and the major general commanding the Army was instructed to redistrict the United States into military departments not to exceed ten in number. In conjunction with the reorganization of 1842 the Office of the Adjutant General became even more concerned with the administration of military justice. During this period of reduced forces these traditional duties of the JA were

performed by the Adjutant General, and they stayed within the jurisdiction of his office until creation of the statutory post of Judge Advocate of the Army in 1849.

The Adjutant General was assisted in his legal functions by military attorneys detailed to his office in the capacity of "Acting Judge Advocates of the Army." The first of these officers was First Lieutenant Samuel Chase Ridgely, a West Point graduate from the 4th Artillery of Maryland. He was followed by two more academy graduates: Captain Leslie Chase, 2nd Artillery of New York; and Captain John Fitzgerald Lee, a Virginian with the Ordnance Department. In broad terms, the inner-office procedure called for the Acting Judge Advocate to prepare a report for the Adjutant General, who in turn forwarded it by indorsement to the General-in-Chief, at that time General Winfield Scott. After approval, the chief general's opinion on a case was then written by the Acting Judge Advocate to the officer concerned. Several opinions were written by the Adjutant General as late as 1849, and his last legal correspondence is dated March 7, overlapping the statutory creation of the Judge Advocate of the Army by some five days.

By the Act of March 2, 1849, Congress authorized the appointment of a Judge Advocate of the Army. That legislation provided that "the President be, and is hereby authorized by and with the advice and consent of the Senate, to appoint a suitable person as Judge

Advocate of the Army, who shall have the brevet rank, pay and emoluments of a major of cavalry." The Acting Judge Advocate, Captain Lee, was appointed the new Judge Advocate, and he continued in that office until his resignation in 1862. Records from the office indicate that Lee's duties included the review of courts-martial and the rendition of various opinions on military subjects as they arose. However, there is some question as to the new Judge Advocate's workload, in that the first opinion signed by him in his official capacity was dated June 17, 1850, and the first recorded incoming correspondence was dated August 19, 1854. The second date may well be explained by the fact that correspondence regarding court-martial cases was kept with the action itself, and the fact that the Judge Advocate was concerned with little other than matters of military justice in the lull before the War Between the States.

The War of Rebellion (1861-1865)

With a nation in the throes of civil war, President Lincoln became hardpressed for a commander who could fight and win. In July of 1862 he brought Major General Henry W. Halleck, an experienced California lawyer and legal scholar, to Washington to replace the cautious General McClellan. As commander of the Department of the Missouri, General Halleck had tried certain persons by military commission who were suspected of aiding the

Confederacy. As Judge Advocate of the Army, Major Lee had held that these commissions were without jurisdiction. Whether because General Halleck desired a free hand as General-in-Chief, or by coincidence, shortly after he assumed command Congress legislated Lee out of his job by superseding the Office of Judge Advocate of the Army, and by recreating that of Judge Advocate General. There are conflicting accounts as to whether Major Lee retired that September, or stepped down immediately, with Major Levi C. Turner of New York serving in the interim between July 31 and September 3, 1862. The enactment—Section 5, Chapter 201, Act of July 17, 1862—declared:

That the President shall appoint, by and with the advice and consent of the Senate, a Judge Advocate General, with rank, pay and emoluments of a colonel of cavalry, to whose office shall be returned, for revision, the records and proceedings of all courts-martial and military commissions, and where a record shall be kept of all proceedings had thereon.

Section 5 further provided that no sentence of death or imprisonment in the penitentiary should be executed until approved by the President. The provision had the practical effect of making the Judge Advocate General an intermediate appellate authority, and the nature of the additional duties it created as Presidential advisor enhanced the

importance of the office. The succeeding section of the Act authorized appointment of a Judge Advocate for each army in the field, with rank and pay of a major of cavalry, who performed duties under the direction of the Judge Advocate General.

As the War Between the States had begun to rage, the Act of July 17, 1862 created a corps of judge advocates. Under this legislation, and until the close of the war, somewhere between 33 and 39 officers were appointed in that corps. Seven or eight of these officers were kept on duty in the Office of the Judge Advocate General, while the others had field assignments. In September of that year, another Judge Advocate General was appointed. The importance that President Lincoln attached to the office was shown by his selection of Joseph Holt, the eminent statesman and lawyer. Holt had served as Secretary of War during President Buchanan's administration, and had previously been Postmaster General and Commissioner of Patents.

General Holt's Confederate counterpart was Albert Bledsoe, Assistant Secretary of War of the Confederacy. He was a West Point classmate of Robert E. Lee and Jefferson Davis, probably best known for founding the *Southern Review*. As might be expected, the Confederate States adopted the Articles of 1806 as their own military code, supplementing them with changes of their own. Among the large number of attorneys who

served with the Confederacy were: John A. Campbell of Alabama, an associate justice of the United States Supreme Court appointed by President Pierce; John Singleton Mosby ("The Gray Ghost"), who with his rangers, was noted for many daring Civil War raids; Jubal A. Early, remembered for his attempt to capture the Union capital in Washington; and a number of other legislators and judges.

Noteworthy among the Union Judge Advocates were: Major John A. Bolles, who later became Judge Advocate of the Navy; Major Henry L. Burnett, trial prosecutor in the landmark case of *Ex parte Milligan*, who assisted General Holt and fellow JA, Major John A. Bingham, in the prosecution of the Lincoln assassin trials. Bingham was also noted as framer of the 14th Amendment to the United States Constitution, and as one of the House managers in the impeachment of President Andrew Johnson. Wells H. Blodgett is the only known Congressional Medal of Honor winner while serving as a Judge Advocate officer, having captured 18 enemy soldiers during his duties as Brigade Commander in the 4th Division, 20th Army Corps. Best known legal scholar of the Civil War officers was Major John Chipman Gray, Royall Professor Emeritus at Harvard, founder of the *American Law Review*, and author of *Restraints on Alienation of Real Property* and *The Rule Against Perpetuities*.

Common Law Felonies and Reorganization (1865-1916)

The Civil War brought one important change to military law. Until 1863, the Articles of War did not include common law felonies except as they may have been prejudicial "to good order and discipline." After 1863 a court-martial had jurisdiction to try such crimes "in time of war, insurrection, or rebellion."

Under the Act of June 20, 1864, the Bureau of Military Justice was created, attached to, and made a part of, the War Department. The Bureau was charged with revising and recording the records and proceedings of "all the courts-martial, courts of inquiry, and military commissions of the armies of the United States." The Judge Advocate General was made the head of this wartime Bureau, and accorded the rank and pay of a brigadier general. The establishment of an Assistant Judge Advocate General with the pay and emoluments of a colonel of cavalry was also provided for, and Major William McKee Dunn was appointed to fill that office.

Upon the reorganization of the Army under the Act of July 28, 1866, the Bureau of Military Justice and its organization of a Judge Advocate General and Assistant Judge Advocate General was continued in operation. A maximum of 10 of the Judge Advocates then in office were eventually retained as permanent Regular Army officers by virtue of the Act of February 25, 1867. By subsequent act of

Congress, the number of Judge Advocates was fixed at eight.

The Articles of 1806 remained in effect during four wars: the War of 1812, the Mexican War, the War Between the States, and part of the Indian Wars. During this period 33 articles were added or amended, but no major changes resulted. In 1874, a revised code was enacted, consisting of some 128 Articles—87 of which had substantially survived from the 1806 code. The 1874 revision further extended the authority to order general courts, and their jurisdiction and powers were enlarged. Legislative authority was also given for another type of court-martial born between 1806 and this revision: the Field Officer's Court, forerunner to the summary court-martial, became authorized for use in times of war.

Under the Act of June 23, 1874, the Office of Assistant Judge Advocate General was discontinued, while provision was made that "In the corps of judge advocates no appointment shall be made as vacancies occur until the number shall be reduced to four, which shall thereafter be the permanent number of the officers of that corps."

After serving as Judge Advocate General for 13 years, Joseph Holt retired on December 1, 1875. During his tenure he had been breveted major general, and had twice declined prestigious Presidential appointments: from Lincoln, the post of Attorney General; and the Office of Secretary of War, tendered by Grant. Holt was succeeded by Colo-

nel William McKee Dunn, his assistant, who became the fifth Judge Advocate General. While in office, General Dunn authored *A Sketch of the History and Duties of the Judge Advocate General's Department, United States Army* (1876 and 1878), which vividly portrayed the growth of the Department from the Revolutionary period to the mid-1870's and contained statistics and testimonials in support of the continued existence of the Bureau of Military Justice. General Dunn retired on January 22, 1881. He was succeeded by Major David G. Swaim of Ohio, an appointee of President Hayes, who had previously served as Judge Advocate of the Department of the Missouri, Fort Leavenworth, Kansas. In 1884, Swaim received a 12-year suspension from rank and duty pursuant to court-martial sentence after having been found guilty of improper financial conduct in a private business transaction, and of rendering a misleading explanation of the affair to the Secretary of War. Swaim spent the next 10 years of his life seeking vindication of the stigma, and in December 1894 the unexecuted portion of his sentence was finally remitted. He retired that same month.

In the midst of the Swaim troubles the Bureau of Military Justice and the Corps of Judge Advocates were, by the Act of July 5, 1884, consolidated under the title of the Judge Advocate General's Department, to consist of one Judge Advocate General with the rank, pay and allowances of a brigadier general;

one Assistant Judge Advocate General with the rank, pay and allowances of a colonel; three Deputy Judge Advocate Generals, with the rank, pay and allowances of lieutenant colonels; and three judge advocates with the rank, pay and allowances of majors. Under the same Act the Secretary of War was authorized to detail such number of line officers as might be necessary to serve as acting judge advocates of military departments, with rank, pay and allowances of captains of cavalry.

Colonel Guido Norman Lieber, who had been General Swaim's assistant, served as Acting Judge Advocate General without the rank or pay of that office from July 22, 1884, to beyond his superior's retirement. Lieber accepted the appointment as Judge Advocate General on January 11, 1895. He was perhaps best known as the author of *Remarks on the Army Regulations* (1898), *The Use of the Army in Aid of the Civil Power* (1898) and many other articles on military law and related subjects. He was the son of Dr. Francis Lieber, scholar on the laws of war, who drafted General Order No. 100 of 1863, the basis of modern law on the subject of land warfare.

A number of pre-Spanish-American War judge advocates merit mention. Three of them were: Lieutenant Colonel Lucien Francis Burpee, who later commanded the Connecticut State Guard as a major general; Captain William E. Birkhimer, Acting Judge Advocate of the Department of the Columbia,

who wrote a text on military government and martial law; and Captain Arthur Murray, another acting judge advocate, whose 1889 "Instructions" were expanded into a courts-martial manual which was commercially published under his own name and later became the official *MCM* published by the War Department in 1895. Perhaps the single most important figure of this era was Colonel William Woolsey Winthrop, who wrote two of the more renowned works on 19th century military law. He prepared three separate editions of his *Digest of Opinions of the Judge Advocate General of the Army* (1865, 1866 and 1868), in addition to later revisions and annotations in 1880 and 1895. Colonel Winthrop's greatest work, *Military Law and Precedents* was published in 1886, with a dedication to his former chief, General Holt. A revised second edition was introduced in 1895, and reprint editions of this treatise were made in 1920 and 1942. Winthrop's distinguished military career included nearly a quarter-century of service alone in the office of the Judge Advocate General. At the time of his retirement in 1895, Winthrop occupied the position of Assistant Judge Advocate General. He spent less than a month as Acting Judge Advocate General prior to Swaim's appointment in 1881.

The Act of April 22, 1898, authorized appointment of Volunteer officers for service in the Spanish-American War. It provided for a judge advocate with the rank of lieutenant colonel for each army

corps. The Act of March 2, 1899, allowed for the retention of five Volunteer judge advocates at major's rank. General Lieber stepped down as Judge Advocate General on May 21, 1901. Within the following three days, three different men took the oath as Judge Advocate General. On the same day that Lieber retired, his assistant for the previous six years, Thomas F. Barr was sworn in as his successor. Barr had entered the Army in 1865; during most of his 36 years of service he held the position of Commissioner of the United States Military Prison at Fort Leavenworth, Kansas, and served as Military Secretary to four different Secretaries of War. After one day as Judge Advocate General, Barr retired and was succeeded by John W. Clous, a German native with over 44 years of American military service. Clous spent nearly 36 years in the line as an enlisted soldier and an officer. He was twice brevetted for gallant conduct at the Battle of Gettysburg; earned distinction for gallantry in the Indian campaigns; and served as a brigadier general of Volunteers during the Spanish-American War. Clous was Secretary and Recorder of the Commission for the Evacuation of Cuba, and served as Deputy Judge Advocate General prior to his appointment as Judge Advocate General. Clous' term of office was double that of his predecessor: he retired after two days. The apparent reasoning behind these two inordinately short tours of duty was that these deserving

Civil War veterans were granted a farewell promotion enabling them to immediately retire as brigadier generals. This suggestion was followed by the various departments of the General Staff, and consequently the retired list of generals became so overburdened that Congress eventually passed legislation to prevent such measures. By the Act of February 2, 1901, the Department was reorganized with an authorized strength of 12 officers in grades from major to brigadier general. For each geographical department or tactical division without a judge advocate commissioned in the Department, the 1901 legislation allowed for one acting judge advocate with rank and pay of a captain, mounted. The same Act provided that vacancies in the office of the Judge Advocate General would be filled by appointing an officer at the grade of lieutenant colonel or higher, holding office for a four-year term.

George Breckenridge Davis, a West Point graduate who spent some 17 years as a cavalryman, became Judge Advocate General of the Army on May 24, 1901. Davis rode as an enlisted man with the 1st Volunteer Cavalry from his native Massachusetts; as an officer he served in 25 battles and engagements during the War Between the States. Aside from authoring books on military history and cavalry tactics, he is also remembered for several works dealing with military and international law: *Outline of International Law* (1888), *Elements of Law* and *Ele-*

ments of International Law (1897), and his *Treatise on Military Law of the United States* (1898). General Davis guided the Department through the Spanish-American War, handling the investigation and trial of the notorious cases that sprang from it; he represented the United States as Delegate Prepotency to the Geneva Conventions of 1903 and 1906, and the Hague Convention of 1907. Davis retired from office on February 14, 1911.

World War and "The Great Debate" (1916-1920)

Another West Point Cavalry officer, Colonel Enoch H. Crowder of Missouri, succeeded General Davis as Judge Advocate General. He had become a judge advocate major in 1895; three years later he served on the commission which arranged the Spanish surrender of the Philippines. While in the islands, he headed the Board of Claims, served on the Phillipine Supreme Court and drafted a new Phillipine criminal code. Later, he was an observer with the Japanese Army during the Russo-Japanese War; chief legal adviser to the U.S.-sponsored Provisional Government of Cuba; and United States delegate to the Fourth Pan-American Conference.

The Act of June 3, 1916, established an Officers' Reserve Corps. The same Act provided for a five-year incremental increase in Department strength to 32 officers with rank from major to brigadier general, plus the acting judge advocates authorized in 1901. However, when the United States en-

tered the First World War on April 6, 1917, the Department contained all of 17 officers, four of whom were on duty in the Washington office. Legislation passed the following month provided for wartime expansion by the appointment of temporary National Army officers, the call to active duty of National Guard and Reserve officers, and the temporary promotion of Regular Army officers. The war brought change within the Department as well: the Judge Advocate General was given rank and pay of a major general (1917); enlisted men were authorized service as law clerks in the War Department and the field (1918); and temporary captains and first lieutenants, along with Reservists, were allowed appointment (1918). As of December 2, 1918, the Department was 25 times its pre-war strength, numbering 426 commissioned officers: 35 from the Regular Army and 391 Reservists and National Guardsmen.

In 1916, under the direction of Judge Advocate General Crowder, a revision of the 1806 Articles of War was undertaken. Among the more noteworthy changes: common law felonies became triable in time of peace, except for servicemen accused of murder or rape committed within the continental United States; a disciplinary court, intermediate between the summary and general courts-martial, was created with powers to impose punishment short of a dishonorable discharge; and reviewing authorities were given the right to mitigate a court-

martial's guilty finding to a finding of guilty of any lesser included offense. The remainder of the Articles mostly reassembled and reclassified previous compilations, adding some codification of the intervening judicial precedents since the 1874 revision. A new *Manual for Courts-Martial* was published in 1917 to introduce and interpret these Articles for the military establishment.

During the war years of 1917-19, Judge Advocate General Crowder was given the additional duties of Provost Marshal General, a position essentially equivalent to director of the Selective Service. This position kept Crowder away from the Judge Advocate General's Office through most of the war, so that the administration of military legal matters fell upon Brigadier General Samuel T. Ansell of North Carolina, the Acting Judge Advocate General.

It was soon realized from wartime application of the 1916 Articles that the pre-revision critics were still unsatisfied with the American military justice system. Most of the continued criticisms centered on the disparity of sometimes harsh sentences, often arbitrarily handed down by various line officers lacking any legal training. Others criticized the absence of appellate review except for those few cases necessitating Presidential confirmation. Up until 1917, Judge Advocates General had interpreted their statutory duty to "receive, revise, and cause to be recorded the proceedings of all courts-martial" as merely a nonenforce-

able, ignorable power to advise a reviewing authority to alter his action on a record of trial. Against the background of the "Texas Mutiny" and "Houston Riot" cases, General Ansell proposed a construction of these duties as empowering the Judge Advocate General with full appellate powers to reverse or modify a reviewing authority's action in instances of jurisdictional defect or prejudicial error. Disagreement from General Crowder set the stage for the Department's great in-house debate commonly referred to as the "Ansell-Crowder Dispute." While the Secretary of War ultimately favored General Crowder's interpretation, Ansell's viewpoint was somewhat vindicated by the 1918 adoption of General Order No. 7, which required reviewing authorities to suspend execution of sentences of death, dismissal or dishonorable discharge until review by the Judge Advocate General. The reviewing authority's freedom to disregard the Judge Advocate General's opinion, however, did not silence Ansell or other more vocal supporters of military legal reform.

World War I had its share of noteworthy Judge Advocate officers: Major Felix Frankfurter became an associate justice of the United States Supreme Court after serving on the Harvard law faculty; with him at Harvard were fellow JA Colonel Edmund M. Morgan and Eugene Wambaugh, respective experts in the fields of evidence and constitutional law; former Northwestern Law School dean, John H.

Wigmore, who contributed his legal acumen in two separate revisions of the *Manual for Courts-Martial*—most notably in areas dealing with his principal field of evidence; and Edwin R. Keedy, later Dean of the University of Pennsylvania Law School. Outside the academic circle: Henry L. Stimson and Patrick J. Hurley both became Secretaries of War—Stimson also serving as Secretary of State, and Governor General of the Philippines; Charles Beecher Warren was Ambassador to Japan and Mexico; while Nathan William MacChesney served as Minister to Canada. Brigadier General Hugh “Iron Pants” Johnston became a popular post-war figure during his service as head of the National Recovery Administration.

With wartime concern over military justice fresh in the national mind, the Ansell-Crowder Dispute developed into a major political topic of the day. Lines were drawn over the essential legal issue: whether the military court-martial system merited the accommodation of evolving jurisprudential developments seen in Article III courts; or whether the system was a strict and more static instrumentality of the executive, set up to aid the Commander-in-Chief or his designee in the command and discipline of the armed forces. Ansell's proposals were drafted and presented to the Senate as the Chamberlain Bill. They called for: more specific definition of offenses; changes in composition, choice and challenge of court members; eradication of command control over the

review of court findings; and establishment of a three-judge military appeals court.

Most of the specific proposals were rejected by Congress, and The Ansell Draft was “badly mutilated,” in the words of a supporter. However, a limited revision of the Articles of War did take place as part of the Army Reorganization Act of 1920, and an attempt was made to meet a number of criticisms levied at the 1916 Articles: the President was given authority to prescribe maximum punishment for crimes; the pretrial investigation was codified, but the officer's recommendations were not made binding; general court-martial charges were to be referred for pretrial SJA consideration and advice; acquittals were to be announced immediately in court; there was still no provision for a judge, but a Departmental “law member” was introduced, with duties to instruct the court and rule on interlocutory matters, but whose rulings were only final as to the admissibility of evidence; commanders continued to review convictions and sentences, but could not review sentences upward or return an acquittal for reconsideration; the reviewing authority was to refer general court records to the SJA for advice prior to final action, but was not bound to accept such advice; and under Article 50 ½ a Department board of review was established for certain general court cases—but whose recommendations were merely advisory to the Judge Advocate General,

Secretary of War and the President. As was done in 1917, a revised *Manual for Courts-Martial* was published in 1921, incorporating the 1920 changes in the Articles of War: this was the first *Manual* promulgated by Presidential order rather than intra-Department directive.

The Act of June 4, 1920, fixed the Department strength at one Judge Advocate General with major general's rank, and an officer corps of 114 to consist of colonels through captains promoted on an Army-wide basis rather than length of service so that there were no fixed numbers in any one officer grade. Vacancies created by the Act were filled with those non-Regulars who joined the Department as part of the wartime expansion; subsequent additions came from branch transfers, plus some Reserve appointments. The Department was forced to demote, retire and discharge some of its officers when its strength was cut to 80 by the Act of June 30, 1922, although that figure was variable by the President within 30 percent.

General Crowder retired on February 15, 1923, leaving the Department with several new volumes in its military legal library. In addition to the revised Articles and *Manual* published during his tenure, a digest of opinions of the Judge Advocates General from 1862-1912 was prepared and supplemented, and an annotated compilation of *Military Laws of the United States* was introduced (with subsequent revisions through

1949). Crowder was succeeded by Colonel Walter A. Bethel, co-author of the 1921 *Manual*. Bethel had been handpicked by General Pershing to be his Staff Judge Advocate during his command of the European forces in 1917. In addition, Bethel had spent 14 years in the line; had served as a brigadier general during the war; and as judge advocate of the American Expeditionary Forces in France. He retired after 22 months as The Judge Advocate General (the capitalized "The" having been added to the office in 1924).

*Unification of the Armed Forces
and Another World War
(1920-1945)*

Colonel John A. Hull, who had served as Acting Judge Advocate General for almost a year and a half prior to Bethel's appointment, was appointed The Judge Advocate General on November 16, 1924. He retired on November 15, 1928, after 30 years of military service to later become Associate Justice of the Supreme Court of the Phillipine Islands. The day following Hull's retirement, Colonel Edward A. Kreger was appointed his successor. Kreger, an infantry officer for many years, served during the war as Assistant to the Provost Marshal General, and as both Assistant and Acting Judge Advocate General for the Branch office of the Judge Advocate General, in France. Kreger retired from office in February of 1931, and was succeeded by Colonel Blanton Winship, a highly decorated JA who at one time com-

manded two infantry regiments, and whose career included such positions as President Coolidge's military aide and legal advisor to the Governor-General of the Philippines. After Winship retired on November 30, 1933, he became Governor of Puerto Rico. He was recalled to duty in the forties for service with the Inter-American Defense Board.

On December 1, 1933, Colonel Arthur W. Brown became Judge Advocate General of the Army. He had served as acting judge advocate of the American Expeditionary Forces at Vera Cruz; was a wartime judge advocate of the 78th Division and the Third Army in France; and served in various other legal capacities throughout Central and South America prior to his duties as TJAG. General Brown retired after expiration of his four-year term, succeeded by Allen W. Gullion on the first of December, 1937. Gullion was perhaps best known for his prosecution of flight ace Brigadier General "Billy" Mitchell, but he also served as judge advocate of the Third Army Corps during World War I. His administration as TJAG was marked by the reduction of the general court-martial rate to the lowest point in the peacetime history of the Army. Four months before his retirement, Gullion was appointed Provost Marshal General, a position he retained some three years after stepping down as Judge Advocate General on November 30, 1941. As Provost Marshal General, Gullion—one of the American

military officers prominent in the revision of the 1906 Geneva Convention—was responsible for carrying out the provisions of that code through supervision of the handling of Axis prisoners of war. Six days prior to the attack on Pearl Harbor, Myron C. Cramer became Judge Advocate General of the Army.

As the war clouds had begun to form in the late thirties, the Army and the Department began to grow. Ninety judge advocates were on active duty in 1938; the Act of April 3, 1939, authorized an increase in Department strength to 121 in annual increments over a ten-year period. On the first of July, 1940, there were but 87 officers on active duty in the Department, all of whom, with the exception of two reserve officers, were members of the Regular Army. Following the Emergency Proclamation, the officer personnel increased to 407 as of December 7, 1941. Retired, Reserve and National Guard judge advocates swelled the ranks from 190 in July 1941 to some 771 a year later: 110 officers of the Regular Army, active and retired. 435 from the Reserve Corps, 81 National Guardsmen, 53 detailed from other branches, and 92 possessing temporary commissions issued by virtue of 1941 legislation. A Judge Advocate General's School was established at National University, Washington, D.C. in 1942. It moved to the University of Michigan in Ann Arbor shortly afterward, serving as an Officers' Candidate School and orientation training for almost 2000 wartime JAG students. Ap-

pointment of temporary officers further increased the officer corps, and by May 31, 1945, there were 2,162 judge advocates in active service, 367 of whom performed duties with the Army Air Force. Between July 1, 1941 and April 30, 1945 over 63,000 general court trial records were reviewed by the boards of review in the Washington office; nearly 20,000 such records of trial were reviewed by boards set up at five overseas branch offices. The wartime workload spilled over in other areas of concern to The Judge Advocate General: claims, military affairs, procurement, international law, litigation and legal assistance.

World War II produced its share of JAG officers who went on to serve their country in other pursuits. Among them: House Speaker Carl Albert; Senators Frank Moss and Ralph Yarborough; Congressmen Joseph Landon Evins and Alexander Pirnie; Federal District Court Judge John Lewis Smith, Jr.; legal educators Joseph Warren Bishop, Jr., William Fratcher, Mason Ladd and Charles Porterfield Light, Jr.; Solicitor General-ICC Chairman Abe McGregor Goff; Army Undersecretary Karl Robin Benderson; and ABA President-Watergate Special Prosecutor Leon Jaworski.

General Cramer stepped down as TJAG on November 30, 1945. In addition to his administrative duties as The Judge Advocate General he had also served as co-prosecutor of the eight German saboteurs who had landed by submarine in Florida

and Long Island in 1943. Brigadier General Thomas H. Green became The Judge Advocate General on the first of December, 1945. He had previously served as wartime executive to the Military Governor of Hawaii, Assistant Judge Advocate General, and Deputy Judge Advocate General. Green repeatedly forecasted the increased need for judge advocates after cessation of hostilities, and his estimates were fully realized by the large requisitions for legal officers immediately submitted by overseas commands after the war. Legislation of 1947 abolished the fixed statutory strength of the Department and its system of permanent commissions, leaving its size and composition to the discretion of the War Secretary. Also in 1947, the Air Force—until that time part of the Army—became a separate and distinct Department. With it went a number of notable JA's who formed the nucleus of the modern day United States Air Force Judge Advocate General's Office. The old system of a statutorily fixed strength with permanent commissions was reinstated in 1948; that year the Department was also transformed into the Judge Advocate General's Corps. Its fixed strength was set at one Judge Advocate General with rank of major general; one major general assistant; three brigadier generals; and a number of Regular Army JA's, in grades from colonel to first lieutenant, not less than one and a half percent of the authorized officer strength of the Regular Army.

*Continued Post-War Reform
(1945-1962)*

World War II had once again focused public attention on the topic of "judicializing" and "civilianizing" military justice. Over 16 million men and women had served in America's armed forces. With over 2,000,000 courts-martial convened during that wartime period, one in eight servicemen was exposed to a criminal code that had been essentially unchanged for 160 years. Most of the stories of unfairness, arbitrariness, misuse of authority and inadequate protection of rights could be boiled down to the criticism that commanders exercised too much control over courts-martial procedures from prosecution through review. It was clear that the central issue in reforming military justice was the commander's role in the court-martial. The Secretaries of the various services and the Secretary of War created numerous committees to investigate complaints, correct injustices, and provide suggestions for improvement in the administration of military justice. Through passage of the Elston Act in 1948, certain amendments to the 1920 Code brought about further reform in the system: counsel for general courts were required to be lawyers, if available; in all such cases where the trial judge advocate was a lawyer, the appointed defense counsel had to be a lawyer as well; dual roles of counsel in judicial proceedings were circumscribed; and a Judicial Council consisting of three JAG generals was

created in addition to, and at a level above, the Board of Review, for review and confirmation in specified cases. This Code was implemented by the *Manual for Courts-Martial, U.S. Army 1949*. In November, 1949, General Green retired as TJAG; he was succeeded by Major General Ernest M. Brannon on January 27, 1950.

Soon after its passage, the need to extend the provisions of the Elston Act to all services, and to set up uniform court-martial procedures with due regard to criticisms already directed at the legislation, was realized. In August of 1948, the military establishment sought to overhaul its justice system with appointment of a special Code-drafting committee headed by Professor Edmund M. Morgan. Seven months later, the committee finalized its draft of the proposed Code. And, after extensive legislative hearings, it was enacted into law by Congress on May 5, 1950, to become the Uniform Code of Military Justice. This 140-article Code was implemented by the *Manual for Courts-Martial, U.S., 1951*. While there were many changes affecting rights of the individual and in nomenclature, by far the most controversial and comprehensive changes concerned the process of appellate review. This system bore a striking resemblance to that proposed by General Ansell and supported by Professor Morgan some 30 years before. At its capstone was a three-judge civilian Court of Military Appeals—evidencing the paramount legislative

concern that a considerable degree of non-military control be injected into the court-martial structure, divesting, insofar as possible, all resemblance of command control. This UCMJ incorporated the Army system of review by a formally constituted Board of Review; the Judicial Council was discontinued.

Within the Corps, the effect of the new Code and a war in Korea created tremendous personnel demands. At the outbreak of hostilities in Korea, there were 650 JA's on duty: 350 being Regulars, and the remainder being Reserve officers on extended active duty. Four involuntary recalls netted some 300 more officers. In 1951, law graduates were commissioned as Reserve first lieutenants and called to active duty for three years. A minimum of three qualified lawyers were required for each court-martial, and two new OTJAG divisions were needed for defense and government appellate duties. During the Korean Conflict, seven boards of review were set up within the Office of The Judge Advocate General. The Judge Advocate General's School, discontinued at Ann Arbor in 1946, was re-established at Fort Myer, Virginia in September of 1950, providing refresher courses for Reserve officers called to active duty. In August of 1951, the School was reactivated as a permanent institution on the grounds of the University of Virginia, in Charlottesville.

The Korean War proved inconclusive as far as the efficacy of the 1951 Code was concerned: the

testing period was far too short. And so, throughout the late fifties and early sixties, there was little public interest in the reform of military law. For the most part, this middle period was a time of reduced conscription. During Fiscal Year 1952, there were 1200 JA's on active duty; in 1956, the Corps numbered somewhat over 1000, with 50% being Reserve officers. After General Brannon's retirement in January of 1954, the next decade saw four new Judge Advocates General: Eugene Meade Caffey (1954-56); George W. Hickman, Jr. (1957-60); Charles L. Decker (1961-63); and Robert H. McCaw (1964-67). Many of the developments within the Judge Advocate General's Corps during this period came about as the result of basic housekeeping: a bound *Court-Martial Reports* was initiated; innovations were introduced in electronic court reporting; a separate promotion list that had proved uncomfortable in the past was abolished; a new Judge Advocate General's School facility was dedicated in Charlottesville; the codification and revision of all military legislation was enacted as Title 10, United States Code; a Field Judiciary program came into existence; a *Military Law Review* was introduced into the ever-expanding Army law library; a careerist's Advanced Course was approved for award of graduate degrees; an Excess Leave Program was developed to assist in Corps recruiting. A growing body of federal case law and other internal developments

further changed the character of military law: the jurisdiction of military courts was reduced when the Supreme Court ruled former servicemen could not be returned to the military for crimes committed during prior service; jurisdiction was removed from over military dependents and Department of the Army Civilians serving overseas; an article dealing with bad check offenses was added to the Code; and a new mode of non-judicial punishment was introduced, giving a commander increased power to discipline those under his command by punishment or monetary forfeiture.

The Military Justice Act of 1968 (1962-1970)

Cold War tensions gripped the sixties. The Berlin buildup, the Cuban missile crisis and finally, Vietnam renewed the need for a strong military establishment. In the area of military legal matters, the Congressional Subcommittee on Constitutional Rights held its first hearing on military justice in 1962. This action was precipitated by nearly a decade of mixed reaction to the 1950 Code—from the Army Secretary's "Powell Committee," an interservice UCMJ committee composed of Judge Advocates General and military appellate judges, the Association of the Bar of the City of New York, the American Legion, and various legal commentators. Through the efforts of Senator Sam J. Ervin, Jr., and Congressman Charles E. Bennet, six years of legislative debate culminated in the

passage of HR 15971—the Military Justice Act of 1968—without a single dissenting vote. Credit for this enactment was also due to Major General Kenneth J. Hodson, The Judge Advocate General of the Army (1967-71) who served as the Defense Department's Congressional liaison, and was informally authorized to negotiate for all the services during the deliberations that preceded passage of the new Act.

Among the more important changes in the legislation: the law officer was designated a military judge, clothed with authority not theretofore recognized as to finality of rulings and the like; the judge became a member of an independent judiciary within his service branch, directly responsible to his Judge Advocate General "for direction and fitness ratings"; the judge could be detailed to a special court-martial and a non-capital general court, where an accused could elect a trial by judge alone; in those cases the accused was advised prior to his election as to the identity of the trial judge, and was afforded the right to consult with his counsel. Special courts were restricted in adjudging a bad conduct discharge to those cases where the accused was represented by a lawyer, a verbatim record was kept and a military judge presided; an individual could then refuse nonjudicial punishment to request trial before a tribunal higher than a summary court, there he would be entitled to counsel as a matter of right. The Boards of Review were replaced by

a Court of Military Review, which could sit in panels or *en banc*; it enacted a military form of release from confinement pending appeal; extended the time for petitioning for new trial; and strengthened other post-conviction remedies available to the serviceman. A revised edition of the *Manual for Courts-Martial* came into being in late 1969, incorporating the changes of the new Justice Act into a *Manual* previously issued that year. The new legislation became effective on the first of August, 1969.

A new Code brought increased manpower demands to a legal corps already occupied with a raging Vietnam war. The Military Justice Act required some 400 new JAGC personnel. The Corps had already experienced a massive build-up in the late sixties with 800 lawyers having been added in 1969 alone. By 1970 the average Corps strength was 1900. Aside from the increased justice activities occasioned by the war, the Corps took on a number of expanded duties: the legal assistance program, begun in 1942, bloomed under the Pilot Legal Assistance Program begun in 1971; claims responsibilities expanded tremendously with increased federal legislation in that area; the advent of status of forces agreements necessitated more attention to international law; procurement requirements mushroomed under wartime military demand; and the law of war took on renewed importance. General Hodson stepped down as The Judge Advocate General in June of 1971, to

take on the responsibility as Chief Judge of the Court of Military Review and Chief of the U.S. Army Legal Services Agency. General Hodson held this post until his retirement in March of 1974. He was succeeded by Major General George S. Prugh, who assumed duties as TJAG in July, 1971.

The Seventies and Beyond (1970-)

The 1970's saw a continued Corps strength approaching 2000 as the war in Vietnam continued on. The military judge was granted power to issue search warrants in limited situations; an experimental "military magistrate" program was employed to reduce unnecessary pre-trial confinement; the military legal community adapted itself to a voluntary Army, a lack of jurisdiction over "service-connected" offenses, and new developments in the growing right to counsel. The end of the Vietnam war in early 1973 signalled a new peace, and time to reflect on the future demands of military law—and to reconsider the legal mission of the entire Judge Advocate General's Corps. Our 200-year heritage evidences tremendous growth. But challenges of a new era await: maintenance of a professional legal corps; environmental and energy demands; more concern with the law of war; implementation of a solid paraprofessional program and modern legal business methods; additional participation in court for the military client. Other criticisms

must be dealt with: the separate defense corps question; the random court member selection problem; the issue of excessive pretrial confinement and military bail; sentencing and suspension powers for the military judge; the drug problem; the ever-growing rights of the individual; racial and sex discrimination; the continued reduction of convening authority review; vague and ill-defined punitive legislation.

The Judge Advocate General's Corps has borne its awesome responsibility ably since 1775, monitoring the administration of the nation's and Army's law, regula-

tions and customs. Those officers of the Corps have convinced their fellow servicemen and commanders of the merit of professional legal advice and equal justice under the law. The Army lawyer has accepted the challenging burden of explaining and justifying the unique features of a military jurisprudence that is oftentimes criticized by a misinformed public. Those who wear the "sword and pen crossed and wreathed" exhibit the education, training, high standards of scholarship, attentiveness to legal detail and exemplary behavior that began with the birth of a country, and shall accompany it for its many centennial celebrations to come.



BRITISH BICENTENNIAL GUEST

Major General John C. Robertson, Director of Army Legal Services of the British Ministry of Defense, graciously visited the United States from April 25 to May 3, 1975 to participate in the Bicentennial Celebration program of the Judge Advocates Association.

During the one week stay General Robertson was the house guest of Major General and Mrs. George S. Prugh. He was the guest and speaker at the Bicentennial Dinner of the Judge Advocates Association at the Army & Navy Club on the evening of 26 April at which The Judge Advocates General of all the services, the officers and directors of the Association and more than a hundred of the members of the Association and their ladies attended. General Robertson's busy schedule included visits to the U.S. Naval Academy, the U.S. Military Academy, The Pentagon, The Judge Advocate General's School and a Dining-In at the Fort Belvoir Officer's Club.

During the summer of 1976 our own TJAG's will make reciprocal visits to their British counterparts.



Major General John C. Robertson, DALS

LAWYERS FOR AND OF THE NAVY

Captain Homer A. Walkup, JAGC, USNR (Ret.)*

Lest one become too strongly imbued with the notion that naval wit comes only from long continued close communion with Neptune, it should be noted that our basic naval law—the disciplinary articles—stems from the Commonwealth period, when the governmental power in England was that of the New Model Army, created and controlled by MP Oliver Cromwell, and was effected by Robert Blake, a merchant MP turned army colonel, who never set foot on a ship in an authoritative capacity until age fifty. When Blake did go to sea, he began at the top, as Admiral and General of the Sea, but spent most of the remaining decade of his life at sea and is generally recognized as being one of the two or three greatest fleet commanders in British history.

Thus emboldened, let further iconoclasm be done by noting that John Paul Jones did not found the Revolutionary American Navy, and that the heroic victory of the *Bon Homme Richard* over the *Serapis* was neither the most significant naval action of the Revolutionary War nor the most significant action conducted solely by American naval forces. The American Colonial Navy was founded in September

and October, 1775, by General George Washington who manned five schooners and a sloop with officers and soldiers from his army and sent them out to prey on incoming British supply ships. The most significant 100% American naval action of the war was the Battle of Lake Champlain in 1776, in which the American ships were completely defeated and destroyed. The necessity of fighting the battle, however, delayed the invasion from Canada from 1776 until 1777, and Burgoyne, who led the invading force in that year, surrendered at Saratoga. The surrender at Saratoga was decisive in bringing the French Navy to our aid, and a major factor in inducing Cornwallis to surrender at Yorktown was the presence of French naval units preventing his being relieved from the sea.

If anyone be considering the erection of a monument to the first professional lawyer associated with the Navy, the prime nominee—whose name has never been a household word—is Bulstrode Whitelocke. Whitelocke and John Bradshaw were the lawyer members of the Rump Commons who comprised a committee with Algernon Sidney which reputedly prepared and ob-

* Member The West Virginia State Bar; Bar of the U. S. Supreme Court A. B., West Virginia University, 1935; LL. B., West Virginia University College of Law, 1938; LL. M., Georgetown Law School, 1947 Member, Navy Court of Military Review, 1966-68 Deputy Assistant Judge Advocate General of the Navy (Investigations) 1968-1973

tained approval, at Robert Blake's behest, of the thirty-six Naval Articles which, some eight years later after the Restoration were enacted into statute law as the Naval Discipline Act of 1661. Bradshaw's name has been omitted from the nomination in the interest of continued amicable international relations. He was the Lord President of the High Court of Justice which kangaroo-tried and condemned Charles I in January, 1649, and although he died in bed prior to the Restoration, the royalist partisans who abounded thereafter exhumed the corpse and dealt with it in an irreverent manner.

The Whitelocke Articles were included, in paraphrase and excerpt, in *Regulations and Instructions Relating to His Majesty's Service at Sea*, 11th edition, published in London in 1772, which publication commanded compliance therewith under the official name of the Act 13 Charles II, chapter 9, notwithstanding that the 1661 Act had been repealed and superseded almost a quarter of a century before by the revision prepared under the aegis of Admiral the Lord Anson, 22 George II, chapter 33, effective 25 December 1749. The *Regulations and Instructions*, not the 1749 legislation, was the source of Rules for the Regulation of the Navy of the United Colonies, adopted by resolution of the Continental Congress 28 November 1775. In defense of the mutatis mutandis dereliction in the *Regulations and In-*

structions, as well as disclaiming any detraction from nominee Whitelocke or beclouding of the validity of the 1775 Resolution, the 1749 legislation subtracted very little from the 1661 Articles and the vast majority of language changes were minor and perfecting only.

It would be a source of pride and satisfaction to match the Army account with a recitation of names of illustrious U.S. Naval judge advocates, beginning on or before 28 November 1775 and continuing to this noon, but the author's ability as a writer of fiction is dubious, and his skill in contriving fabrications, nonexistent. The Navy went out of existence after the Revolution. In the early stages of operation of the present government under the Constitution, construction and outfitting of some ships was authorized to meet the threat of the Barbary pirates, but the mission was entrusted to the War Department. An Act approved 1 July 1797¹ authorized the President to cause the frigates *United States*, *Constitution*, and *Constellation* to be manned and employed. Section 8 of that Act provided that the personnel belonging to the "navy of the United States" (note that the initial 'n' is lower case) should be governed by the rules for the regulation of the navy established by the resolution of 28 November 1775, "as far as the same may be applicable to the constitution and laws of the United

¹ 1 Stat. 523.

States, or by such rules and articles as may hereafter be established." An Act of 30 April 1798² established the Department of the Navy with the Secretary of the Navy as its chief officer, and insinuated that the Office of the Secretary of War should turn over all papers and cease dabbling in naval affairs once the Department of the Navy came into operation. An Act of 2 March 1799,³ set forth a revision of the 1775 rules presenting a more lawyerlike appearance, and 23 April 1800⁴ witnessed a well conceived "Act for the better government of the Navy of the United States," utilizing material derived from the 1749 British legislation as well as the *Regulations and Instructions*. With the sole significant addition, in 1855,⁵ of the authority for three-officer summary [now termed special] courts-martial, empowered to impose any of several specified punishments, including discharge from the service with a bad-conduct discharge, upon petty officers and persons of inferior ratings, the Act of 23 April 1800 apparently satisfied the needs of the Navy until 17 July 1862.

Lawyers undoubtedly served as, and assisted, the Secretary of the Navy during the pre-Civil War period. A judge advocate's function, however, inherently does not lend itself to direct or guided per-

formance by civilian experts from the front office. Moreover, transportation and communication were so slow and difficult that timely assistance could seldom have been rendered from Washington, even had it been otherwise feasible. It would be comforting, in the instant connection, to specify some, and suggest by allusion the existence of innumerable more, evils stemming from lack of professional lawyer guidance of commands; but the ascertainable facts simply do not support any such brief. The sole incident of which the outcome might arguably have been altered had a suitably experienced lawyer been present was the execution of a midshipman and two seamen in 1842 aboard the brig, USS SOMERS, commanded by Captain Alexander Slidell MacKenzie. The three were suspected of plotting a mutiny and seizure of the ship. The hangings attracted much contemporaneous public attention in that the midshipman involved was Philip Spencer, son of the incumbent Secretary of War. Whether MacKenzie had overreacted; whether he had made sufficient allowance for investigative bias on the part of Lieutenant Gansevoort, who had served as the command's eyes and ears regarding the mutiny; and whether the suspects might not have been set ashore; all remain

² 1 Stat. 553.

³ 1 Stat. 709.

⁴ 2 Stat. 45.

⁵ Act 2 March 1855, 10 Stat. 627.

as issues on which there is no unanimity, in or out of the service. Whatever resolution may be made of them, arguendo, the isolated unfortunate incident ill supports a blanket indictment of the sixty-year disciplinary organization.

The Civil War occasioned a seven-fold expansion of Navy personnel (8800-60,000) and of vessels (76-600) by the end of 1864, and the effectiveness of the blockade by that time in reducing to a trickle supplies reaching the Confederacy, is one of the less-heralded factors contributing to the surrenders the following Spring. Secretary of the Navy Gideon Welles, his own background being that of a New England newspaper publisher, was perceptive respecting the need for legal services which such expansion would entail, as he was in other particulars. He obtained from the office of the United States Attorney in the District of Columbia, one of the Assistants, a 26 year-old lawyer from Zanesville, Ohio, who had been admitted to the District of Columbia Bar the previous year, and pressed him into service as "Solicitor for the Navy Department" (a post for which there was no statutory authorization) from 1862-1865. Nathaniel Wilson served as judge advocate of a court-martial at City Point, Virginia, before which Commander Parker was tried on charges of failing to attack Confederate vessels passing obstructions in the James River. Prosecuting Captain Napoleon Col-

lins for having illegally captured a Confederate vessel in the harbor of Bahia, Brazil, suspectedly called for histrionic, as opposed to legal, talent on Wilson's part. Wilson was involved in prosecution of alleged contract frauds, being judge advocate of a panel court-martial which sat in New York City. His association with the Navy was discontinued near the end of Lincoln's first administration. Entering private law practice in Washington, D.C., Wilson represented clients before international commissions; was four times president of the Bar Association; and died in 1922, at age 86.

In February, 1865, Welles requested creation by the Congress of an office of Solicitor and Naval Judge Advocate General, to which the Congress responded with an Act approved March 2, 1865,⁶ authorizing such appointment by the President, by and with the advice and consent of the Senate, "for service during the Rebellion and one year thereafter." Four days after approving the Act, Lincoln appointed William Eaton Chandler to the office. Chandler had been graduated from Harvard Law School at the age of 19, in 1854, functioning successively thereafter as court reporter, politician, and journalist in his native State of New Hampshire, being sometimes termed the "stormy petrel" of that political sphere. Joseph A. Gilmore, father of Chandler's wife, was Governor of New Hampshire 1863-5; during the same years Chandler

⁶ ch. 76, 13 Stat. 468.

was elected to the legislature and was Speaker of the Assembly in 1864 and 1865. Concurrently with Wilson's activity in New York, Chandler had performed part-time service for the Navy Department in the prosecution of alleged war contract frauds in Philadelphia.

A question coming to mind is why one of this background could not obtain a better appointment than the \$3,500 a year position of Solicitor and Naval Judge Advocate General. Chandler had campaigned vigorously for the reelection of Lincoln. The probable answer is that in campaigning, Chandler had made some speeches indicative of a harsh and punitive attitude toward the South, whereas Lincoln was inclined toward conciliation. Chandler remained in the Navy Department post for only a matter of weeks, being appointed Assistant Secretary of the Treasury by Johnson following Lincoln's assassination. He played an important role in the 1876 national election contest, perhaps being the single individual making the greatest contribution toward securing the election of Hayes over Tilden, but later published a tract charging Hayes with having made a corrupt bargain with Southern Democrats to relax reconstruction measures in return for the Presidency. Nominated Solicitor General by Garfield, he failed to receive confirmation by the Senate. President Arthur appointed him Secretary of the Navy in 1882, in which post he served until 1885. His three years in that post witnessed the begin-

ning of conversion from wooden to steel hulls for naval vessels, but he insisted that the new vessels be built in yards in the United States. American technology was not equal to the challenge at the time, and none of the four vessels started during his tenure was any better than mediocre. Chandler was elected to the Senate from New Hampshire in 1887, 1889, and 1895, but was defeated in seeking reelection in 1901. His death occurred in 1917.

The office of Chief Navy Lawyer, which started out as a forum for the display of the talents of a rising young Mr. District Attorney, would seem, by Chandler's appointment, to have a potential for becoming a revolving patronage chair for deserving partisans who might either be destined for greater things or for ultimate return to the precinct from whence they came. The third, and last, appointee, however, was an archetypical bureaucrat. John Augustus Bolles was a Massachusetts lawyer; Secretary of State in Massachusetts 1843-4; a member of the Massachusetts Board of Education; and, in 1852, a Commissioner of Boston Harbor. During the Civil War, he served as judge advocate on the staff of General John A. Dix, attaining the brevet rank of colonel. At age 56, he was appointed by President Johnson to the post of Solicitor and Naval Judge Advocate General, and to all practical intents and purposes continued in that post until his death, at age 69, on 25 May 1878.

The concept of a central legal bureau serving the Federal Government is of centennial vintage only. Proposals for what is now the Department of Justice began to appear in about 1867, and its creation was accomplished by an Act approved 22 June 1870. Prior to that time, various governmental departments had "Solicitors," and the State Department had an Examiner of Claims. The War Department had a civilian Solicitor and a Major General as Judge Advocate General. Section three of the 1870 act transferred all of the various departmental solicitors to the Department of Justice, including the Solicitor and Naval Judge Advocate General, who was thereafter known as the Naval Solicitor.⁷ Section 394 of the Revised Statutes included provision for that office in the Department of Justice.

During the time that Colonel Bolles occupied the Solicitor's office, the Navy seemed to be headed toward extinction. No major construction was undertaken until after Chandler became Secretary—four years after the death of Bolles. It is therefore unlikely that Bolles was overburdened with legal work arising out of materiel procurement. Such tort claims as might arise were handled by Claims Committees of the Congress. Pay litigation in the Court of Claims was probably under his purview, but it is highly doubtful that Navy and

Marine Corps officers utilized to advise them on delicate disciplinary problems one who: (a) was of paternal, and approaching grand-paternal, age relative to them; (b) had wartime staff experience only in another military service of differing traditions; (c) was a potential appointee; and (d) was now serving in a separate governmental department, with no common superior to whom differences of views could be submitted other than the President. It is not surprising that less than a month after the death of Bolles, a provision in the June 19, 1878, appropriations act repealed the portion of Section 394 of the Revised Statutes which provided for the Office of Naval Solicitor in the Department of Justice, and abolished that office effective 30 June 1878.

The Service Member Judge Advocate General

Two days after the effective abolition of the Office of Solicitor, the Secretary of the Navy detailed a Marine Corps Captain, William Butler Remy, a 36 year old Iowan, who had entered the Corps at 19, as a Second Lieutenant, in 1861. He attained his captaincy in 1872, while serving in Washington as Acting Judge Advocate of the Marine Corps. In common with most service officers performing judge advocate duties at the time, Remy had no formal legal training. He was made Acting Judge Advocate

⁷ The office of Naval Solicitor and Judge Advocate General, established during the Rebellion and for one year thereafter, was continued year-to-year in appropriations acts, 1866-69.

of the Navy Department, and charged with the duty of reporting upon all matters submitted to the Secretary of the Navy involving questions of law and regulations. The functions of reviewing, indexing, and filing records of summary [special] and general courts-martial, and of examining and retiring boards, were transferred from the Bureau of Navigation (name later changed to Bureau of Naval Personnel) to the Acting Judge Advocate. Captain Remy reportedly spent the following years seeking establishment of the office by statute, and an Act approved 8 June 1880, authorized appointment by the President, by and with the advice and consent of the Senate, from the officers of the Navy or the Marine Corps, for a four year term, a judge-advocate-general of the Navy, with the rank, pay, and allowances of a captain in the Navy or a colonel in the Marine Corps. The office was to have the functions, under the direction of the Secretary of the Navy, of receiving, revising, and recording the proceedings of all courts-martial, courts of inquiry, and boards for the examination of officers for retirement and promotion in the naval service, and "perform such other duties as have heretofore been performed by the solicitor and naval judge-advocate-general." Remy was advanced from the grade of Captain to that of Colonel in the Marine Corps under the Act (the same grade as was then held by the Commandant of the Marine Corps), and was reappointed for

further four-year terms in 1884 and 1888. He was retired for physical disability in 1892, having spent fourteen years in the office, and died in Somerville, Massachusetts, on 20 January 1895. His remains were buried in Somerville, but were later removed to the Church Yard of Pohick Church, Virginia.

No officer of the Marine Corps has been appointed Judge Advocate General of the Navy since 1892. Six officers of the Navy held the office between 1892-1918. In the latter year an Appropriations Act provided that the officer holding the office of Judge Advocate General of the Navy should have corresponding rank and receive the same pay and allowances as provided by law for Bureau Chiefs and the Judge Advocate General of the Army. This effectively made the office carry the grade of Rear Admiral when held by officers of the Navy, or of Major General if an officer of the Marine Corps were to be appointed thereto. Six naval officers served as Rear Admirals in the office, and one of those six who had served as Captains was again appointed to the office as a Rear Admiral, during the period 1918-1938. None of the twelve was a professional lawyer, hence during the first fifty-eight years of its official existence, the Office of Judge Advocate General of the Navy was held by thirteen non-lawyers.

Efforts to supply professionalism

The Appropriations Act of April 17, 1900, established an office of

Solicitor, as part of the Office of the Judge Advocate General of the Navy, effective 1 July 1900. The office of Solicitor was continued through provisions in annual appropriations acts until 1907. In 1906, both Secretary Bonaparte and Captain S. W. B. Diehl, Judge Advocate General, requested funds to obtain better legal services, the latter noting particularly the difficulty the Navy was experiencing in retaining counsel to handle admiralty litigation. On 1 November 1907, Secretary Metcalf divided functions of the Office of the Judge Advocate General into "military" and "nonmilitary" categories. "Nonmilitary" functions were assigned to the Solicitor, who was thenceforth to operate directly under the Office of the Secretary. This was made statutorily effective as of 1 July 1908, in the appropriations act of that year. The Judge Advocate General who succeeded Captain Diehl resigned after serving for slightly less than two years, following a failure by the Secretary of the Navy to accede to his request that the Solicitor be again subordinated to the Judge Advocate General.

Pickens Neagle was the first Solicitor. After removal of the office from the Judge Advocate General, Graham Egerton, a Southern Democrat, became Solicitor. An Executive Order of 31 May 1918, transferred the Office of the Solicitor of the Navy Department, along with other Departmental So-

licitors, to the control of the Department of Justice. There was, however, no change in physical location or functioning of the office. Difficulties were experienced from having separate law offices in the Department, occasionally rendering irreconcilable opinions on indistinguishable issues. Changes in Navy Regulations, approved by the President 29 August 1921, gave the Judge Advocate General cognizance of all matters of law arising in the Navy Department. The title of Solicitor was retained, and reconferred upon Pickens Neagle, but his practical status remained that of a division head in the Office of the Judge Advocate General of the Navy.

Contemporaneously with the transfer, in 1907, of the Office of Solicitor from the Judge Advocate General, there arose within the Office of the Judge Advocate General the practice of designating a senior civilian attorney as "Consulting Attorney" or "Special Counsel." His principal function was to provide continuity. Mr. George Melling occupied this position as of about 1910, and produced "Laws Relating to the Navy Annotated" (LRNA), a painstaking and scholarly compilation. Mr. Hugh J. McGrath succeeded Melling. McGrath served the Department from 1914 through 1957, being graduated from Georgetown Law School during the early portion of that service. Since 1958, Mr. John A. McIntire has served as Civilian Counselor.

Naval Disciplinary Law Subsequent to July, 1862

Of the professional lawyers mentioned thus far, Wilson and Chandler (the first two persons in the office of Solicitor and Naval Judge Advocate General) would appear to have been the only ones having any day-to-day concern with naval courts-martial or courts of inquiry. Since Chandler's experience in prosecuting contract fraud cases in Philadelphia was part-time and circumscribed in scope, the list can probably be further reduced to Wilson alone. Bolles may have had some contact with this aspect at the earlier stages of his service, but it seems to have become firmly implanted in the personnel agency (Bureau of Navigation) by the time of inaugurating the practice of appointing Judge Advocate Generals exclusively from officers of the Navy or the Marine Corps. The Disciplinary Articles have heretofore been traced from the Commonwealth to the Civil War. Perhaps this is as appropriate a time as any, before discussing the era of professional lawyers in the Office of the Judge Advocate General, to pursue further the development of the law which is their principal concern.

The Act approved 17 July 1862,⁸ was, as stated above, the first general revision since 1800 of the body of statutory law of which the seagoing Naval commander required immediate working knowledge. It

obviously represents the handiwork of one or more knowledgeable and reflective persons, and to such extent as Nathaniel Wilson may have participated (its enactment took place in the middle of the year in which he began work in the Navy Department), it would indicate that Secretary Gideon Welles chose well. For whatever inferences may be based thereon, the immediately preceding chapter (203), approved on the same day, suspended for some six months a statute dealing with contract frauds, one of the problems with which Wilson, along with a great many other persons, was concerned. The 1862 revision of the Navy laws contained twenty sections, the first of which put into effect as of 1 September, 25 Articles for the Government of the Navy. To preclude leaping to the conclusion that this represented a less thorough job than the 36 Whitelocke/Blake Articles of a bi-centennium before, it should be noted that Article 3, setting forth capital offenses, contained ten sub-articles; and that Article 7, defining offenses for which punishment by death was not expressly authorized, contained 14 subarticles, thus giving a net gain of 13 articles over the two hundred years. Other sections of the Act were concerned with prize, disability pensions, maintaining records of men on board, transfer ashore preparatory to discharge, and continuance of authority over crews of wrecked or captured vessels. An Act approved

⁸ ch. 204, 12 Stat. 600.

2 March 1863,⁹ provided comprehensively for prosecution and penalties in cases of frauds against the United States perpetrated by either persons in the armed forces or civilians. Section 38 of an Act for enrolling and calling out the national Forces, and for other Purposes, approved 3 March 1863,¹⁰ set forth provisions for trial before a general court-martial or military commission, and sentence to death, of all *persons* found lurking or acting as spies in time of war or rebellion.

The Revised Statutes represented a consolidation and reenactment of all statutes of the United States in effect on 1 December 1873. Section 1624 provided, "The Navy of the United States shall be governed by the following articles:" There followed sixty articles. Article 4 set forth twenty subarticles defining offenses punishable by death; and Article 8 contained

thereunder twenty-two subarticles defining offenses punishable at the discretion of a court-martial. An Act approved 25 February 1895,¹¹ added Articles 61 and 62, imposing limitations upon time of initiating court-martial prosecutions; and an Act of 27 February 1895,¹² added Article 63, providing for Presidential limitations, in peacetime, upon sentences which might be adjudged, when punishment was left within the discretion of a court-martial. One-officer Deck Courts [corresponding to present Summary Courts-Martial] were authorized in 1909,¹³ and provisions therefor made Article 64 in 1916.¹⁴ Articles 65 through 70, the remaining "Rocks and Shoals" as they existed prior to supersession by the Uniform Code of Military Justice, effective in 1951, were added during the early decades of the present century, and made miscellaneous perfecting provisions.¹⁵

⁹ ch. 67, 12 Stat. 696.

¹⁰ ch. 75, 12 Stat. 731, 737. *Ex parte Quirin*, 317 U.S. 1 (1942).

¹¹ ch. 128, 28 Stat. 680.

¹² ch. 137, 28 Stat. 689.

¹³ Act February 16, 1909, c. 131, 35 Stat. 621.

¹⁴ Act August 29, 1916, c. 417, 39 Stat. 586.

¹⁵ Art. 65: Reservists and auxiliary naval force (e.g., Coast Guard) officers empowered to serve on courts-martial. Oct. 6, 1917, c. 93, 40 Stat. 393; July 1, 1918, c. 114, 40 Stat. 708; Feb. 28, 1925, c. 374, secs. 1, 28, 43 Stat. 1080, 1088.

Art. 66: Commanding officers of hospitals and hospital ships may be authorized to convene courts-martial. Aug. 29, 1916, c. 417, 39 Stat. 586.

[Footnote continued on page 39]

At this point, return will be made to the development of the Office of the Judge Advocate General of the Navy during and post World War II. Indication has been given of the origins and general nature of the body of statutory law with which that Office was principally concerned throughout World War II and to the eve of Korean combat. It is beyond the scope of this article either to discuss the Uniform Code or to attempt comparison between it and previous law. Evidence has been adduced in support of the thesis that there was a respectable body of naval law in existence in 1776, and for well over a century before that date, which provided adequate undergirding for conduct of the most extensive sea operations in our planetary history. The proponent rests his case!

Navy Lawyers—1938-1956

Rear Admiral W. B. Woodson, who entered upon the duties of Judge Advocate General of the Navy on 20 June 1938, was the first formally educated lawyer to serve in that capacity. He was the

first of a succession of six officers to serve in that capacity who were of a class known as "Law PGs," i.e., Law Post Graduates. After graduation from the Naval Academy and service for a period as a line officer, an officer interested in becoming a lawyer would so indicate to the Department. If selected, he would be assigned to the Office of the Judge Advocate General of the Navy with the primary duty of attending and completing a three-year course in one of the Washington Law Schools. After graduation and admission to the bar, he would be assigned back to line duties, normally at sea. Thereafter his tours of shore duty would be spent in the Office of the Judge Advocate General or in a "legal billet" elsewhere under some degree of supervision of that Office. The Law PGs were sometimes referred to as "lawyers among seamen, and seamen among lawyers," a generalization which was unjust as applied to some highly able individuals who could hold their own in any company, but which was also not without a measure of validity.

¹⁵ [Continued]

- Art. 67: Marines embarked aboard ship. Aug. 29, 1916, c. 417, 39 Stat. 586.
- Art. 68: Depositions. Feb. 16, 1909, c. 131, sec. 16, 35 Stat. 622.
- Art. 69: Authority to administer oaths. Jan. 25, 1895, c. 45, 28 Stat. 639; Mar. 3, 1901, c. 834, 31 Stat. 1086; Mar. 4, 1917, c. 180, 39 Stat. 1171; July 1, 1918, c. 114, 40 Stat. 708; Feb. 28, 1925, c. 374, 43 Stat. 1080.
- Art. 70: Officer detailed to conduct investigation authorized to administer oaths to witnesses. R. S. sec. 183; Feb. 13, 1911, c. 43, 36 Stat. 898.

Creation of the Office of General Counsel

On 1 June 1940 there were in the Office of the Judge Advocate General of the Navy fourteen naval officers performing full-time legal duties; eight naval officers assigned to the Office while attending law schools; and twenty-two civilian attorneys. There were four major divisions in the Office: I. Military Law, Investigations, Promotions, Retirements. II. Legislation, Regulations, Pay entitlements, Admiralty, Claims. III. Contracts, Real Estate, Surety Bonds, Commercial Law. IV. Patents, Patent Litigation, Patent Research.

Secretary of the Navy Knox and Under Secretary Forrestal saw at this time that the defense buildup would entail some \$600 million in Naval contracts, and that if the United States should become involved in the European war manifold greater expenditures would be involved. They conferred with Rear Admiral Woodson on two major topics. As to the need for expansion of the Office of the Judge Advocate General, there was no difference of opinion. As to the mode of procedure of the Office, there was a gulf between them. The Secretary and Under Secretary conceived of lawyer-client type relationships, whereby an officer in a materiel bureau would telephone a peer lawyer in the Office of the Judge Advocate General and would be given and would utilize advice up to the point that either might feel that exceptional circumstances

were presented, calling for either or both additional data and consultation of a superior. Admiral Woodson, on the other hand, contended that lawyers in his Office should act only upon a formal written submission, signed at a responsible level in the requesting Bureau, with the response from his Office similarly reviewed and signed "up the line." He defended this formal system on the basis that officers throughout the Department would thereby be forced to exhaust the possibilities of thinking through and working out problems internally; with the result that the time and energies of lawyers would be conserved for genuine legal problems. Further, formal submissions and responses provided better insurance against lawyers being misled, misquoted, or misinterpreted, with either well-intentioned or base motives.

Under Secretary Forrestal was not persuaded by Admiral Woodson's arguments. He had the matter considered by lawyers deemed independent. They recommended establishment, directly under the Office of the Under Secretary, of an organization to be concerned with all legal matters involved in materiel procurement, headed by a civilian lawyer. The lawyer in charge of that organization should have in each of the four major materiel bureaus a lawyer who would be responsible directly to him, not to the chief of the bureau. In 1941, Under Secretary Forrestal sought to obtain statutory authority for the appointment of fifteen

attorneys in accordance with those recommendations. The Honorable Carl Vinson, of Georgia, then Chairman of the Naval Affairs Committee of the House of Representatives, was inclined to agree with Admiral Woodson and the legislation enacted at that time authorized appointment of one such attorney. Under Secretary Forrestal proceeded to establish the organization in the manner recommended to him, employing other attorneys on a per diem basis. Admiral Woodson advised that the employment was not authorized, but the Comptroller General later upheld the action of the Under Secretary. The organization established in the Summer of 1941 was termed the Procurement Legal Division, and H. Struve Hensel was appointed to the single post authorized by the Deficiency Appropriations Act. All contracting, with the exception of that connected with real estate procurement or transfer, was under the legal oversight of the PLD. Formal requests for legal opinions on procurement contracts might still be presented by the Head of the PLD to the Judge Advocate General, and it was directed that any differences of viewpoint be settled between the principals of those Offices.

"The Reorganization of Procurement Procedures and Coordination of Legal Services in the Navy Department," a report published 10

May 1943 by a personnel subcommittee of the House Committee on Naval Affairs, upheld the position taken by Under Secretary Forrestal, concluding that the Office of the Judge Advocate General of the Navy, as an organization, and its constituent officers as individuals, were not equipped to cope with legal aspects of procurement contracting. The report indicated that the working experience of a "Law PG", as officer of the deck of a ship at sea, did not, in the view of the subcommittee, equip him to oppose fulltime lawyers of the calibre which firms striving for and undertaking military and naval contracting might be expected to retain.

On 3 August 1944, the name of the Procurement Legal Division, which then comprised 160 lawyers, was changed to the Office of General Counsel (OGC) of the Navy Department, which it remains today.¹⁶ As a postscript, the author is reliably informed that all of the ink—which in those primordial times flowed through the veins of lawyers undiluted by photocopy machine toner fluid—was thoroughly flushed from the scuppers even before ultimate demolition of those seemingly permanent temporary buildings on the Mall which housed so much of the Department of the Navy.

The real estate procurement and transfer function, 1880-1940, was the ball at the top of a very slow-

¹⁶ R. H. Connery, *The Navy and the Industrial Mobilization in World War II* (Princeton University Press, 1951); R. G. Albion and R. H. Connery, *Forrestal and the Navy* (Columbia University Press, 1962).

set metronome, moving between the Office of the Judge Advocate General of the Navy and the Bureau of Yards and Docks (now Naval Facilities Engineering Command). 7 December 1941 found the ball in the Office of the Judge Advocate General, but the inability of the Office to handle the increased wartime work volume occasioned a 1942 Executive Order (9194), putting the function in the Bureau of Yards and Docks. There it remained until 1952 when, with neither bang nor whimper, it was transferred to the Office of General Counsel.

McGuire Committee vs. Ballantine Board: Staff Corps or Line Ward?

The end of hostilities in World War II presented the question of what sort of lawyer-in-uniform organization would best serve the Navy and nation in the future. A Committee chaired by the Honorable Matthew F. McGuire, with the Honorable Alexander Holtzoff and Colonel James M. Snedeker, U.S. Marine Corps, as members, held that such lawyers should constitute a staff corps headed by the Judge Advocate General of the Navy whose office would direct the assignment of lawyers. Within the staff corps, promotions would be made on the basis of recommendations of boards comprised solely of lawyers. Chaplains, physicians, supply officers, and others had occupied this status, and it was considered that lawyers similarly would function best as professionals running their own show.

Another view was advanced by the Ballantine Board, headed by the Honorable Arthur A. Ballantine of the New York Bar. The Ballantine Report proceeds from the assumption that the lawyer in a military service has the prime function of structuring a system of discipline which is best calculated to assure that any given component of the service will be at the place where it is needed at the time that it is needed, trained and equipped to do what is needed. Those objectives are the mission of line personnel administration. The training of the lawyer is not directly in point because in civil life the law predominantly serves a deterrent, rather than an affirmatively motivating, role. The lawyer should provide a dampening and restraining influence upon employment of measures which experience has shown to be, at long range, self-defeating and counterproductive, but if judgments as to whether such influence was properly or improperly exercised in particular instances are left solely to other lawyers, then they will be made upon consideration of a single brief only. The Ballantine Board report suggested that rather than a separate staff corps organization, a restricted line designation would best accomplish the objective of keeping the lawyer to his last without inclining him to become imbued with the notion that the service exists to provide feet to be shod.

The Ballantine Board recommendations prevailed over two decades. From a mechanical stand-

point, lawyers were lumped into a special duty only category along with hydrographers, intelligence officers, and other oddly assorted fish, and were not set apart in the same manner as Engineering Duty and Aeronautical Engineering Duty officers. True, the SDO components were competing only with others of the same specialty, but this treatment of the lawyers, vis a vis other learned professions, was invidious. An Act approved 8 December 1967, amended sections 5148 and 5149 of Title 10, U.S. Code, to establish the Judge Advocate General's Corps as one of the staff corps of the Navy.

Navy Lawyers—1956-1976

Rear Admiral Chester C. Ward, who became Judge Advocate General of the Navy on 17 August 1956, was the first professional lawyer to hold that office who had not attended the U.S. Naval Academy nor obtained his formal legal education while serving on active duty. His successor, Rear Admiral William C. Mott, had been graduated from the Naval Academy in 1938, but resigned after graduation and pursued the muse of the law without assistance from the Navy. Since that time, attendance at the Naval Academy has become apparently an irrelevant factor but perhaps even mildly disadvantageous in that a choice of one with that background

may be required to be more defensible.

Post 1976

The author hails from a bygone era when no yearbook was complete without a class prophecy. Such flights of fancy are much simpler when made concerning individuals and addressed solely to a small group of individuals familiar with each other. Predicting what and where the nation, or any branch of its armed forces, may be a fortnight hence is not something to be undertaken with any degree of assurance in the kaleidoscopic world of to-day. The end of the draft after 33 years and the draining of draft-filled personnel pipelines should be vectored, along with the fading away of the World War II warriors, all of whom are now completing thirty years of service, and the leaks of the Korean veterans, now all having over twenty. The economic picture and changed social patterns and mores must be reckoned with, but there will be no approach to unanimity as to how much or which way. All of us would like to feel that the wheel is in better hands now than when Bulstrode Whitelocke and Robert Blake were (figuratively) at the helm. We don't have the wake record to prove it, though!



History of the Judge Advocate General's Office of the U.S. Air Force

Jerry E. Conner

When the Nation reaches its Bicentennial year the Air Force Judge Advocate General's office will be only 28 years old. We are the youngest military service but we have created a proud tradition of innovative and effective legal services in that short span. This tradition did not begin with our creation as a separate entity in July of 1948 but has its roots in the Judge Advocate General Corps of the United States Army. Many of our first members came from that Corps. The Army Judge Advocate General's Department traces its history to the earliest days of this republic. On 29 July 1775, the Second Continental Congress, sitting at Philadelphia, selected William Tudor, Esq., a former law student of John Adams, as Judge Advocate of the Army. In 1776 the United Colonies became the United States of America and, on 10 August, Congress accorded Mr. Tudor the title of Judge Advocate General and the rank of Lieutenant Colonel in the Army of the United States. One of Colonel Tudor's subordinate judge advocates was Captain John Marshall of the 15th Virginia Regiment, who was later

to be a member of Congress (1779-1800), Secretary of State (1800-1801), and Chief Justice of the United States (1801-1835). This auspicious beginning was a prelude to a long line of patriots and legal scholars who have served as judge advocates. Of those who served during the war of 1812, the best known is the distinguished authority on international law, Henry Wheaton. Major Wheaton was the reporter for the Supreme Court of the United States, Professor of Law at Harvard University, Charge d' Affaires to Denmark, and Minister to Prussia. During the period between the Revolutionary War and the War of 1812, and then again until 1862, the Congress provided for only a small army in which the number of judge advocates was either one or two, and during one period there was none.

The Civil War brought a renaissance to the Army judge advocate. By an Act of Congress of 17 July 1862, the position of Judge Advocate General was established, and it has existed ever since. Of the judge advocates appointed since this War, one of the best known to

* Colonel, U.S.A.F.

lawyers is Major John Chipman Gray, the famous legal scholar and Professor of Law at Harvard University.

Again, in World War I, some of the nations greatest legal talent served their country as judge advocates. Included in this group were Major Felix Frankfurter and Colonel John H. Wigmore. Also serving with distinction in World War I were judge advocates Major Henry L. Stimson and Lieutenant-Colonel Patrick J. Hurley, both of whom later served their country as Secretary of War.

The few names mentioned here illustrate the proud tradition which has been part of the judge advocate's place in our military history. In both war and peace, the judge advocate has served with the highest respect from both the military and legal professions.

The Office of The Judge Advocate General of the United States Air Force finds its origin in the Office of The Air Judge Advocate of the Army, which was established on the 9th of March, 1942. Prior to that date, the Office of The Chief of the Army Air Corps was legally serviced by officers assigned to the Judge Advocate General's Department. On 28 February 1942, President Roosevelt issued Executive Order 9082 under the authority of Title I of the First War Powers Act of 1941. By this authority and in his capacity as Commander-in-Chief of the Army and Navy, the President directed that the Army of the United States be reorganized under the Chief of Staff, es-

tablishing three major entities to include the Army Ground Forces, the Army Air Forces, and the Services of Supply, each having its own commanding general. Actually, the Army Air Forces had already come into existence on 20 June 1941, almost a year earlier, with the issuance of an Army regulation and a War Department Special Order designating the Chief of the Air Corps as the Chief of the Army Air Forces. In the aforementioned Executive Order, the President transferred to the Commanding General, Army Air Forces, the functions and duties of existing Air Force and Air Corps organizations. Pursuant to this order, on 9 March 1942 the War Department promulgated War Department Circular 1 which put this reorganization into effect. The Office of The Air Judge Advocate was created as an office of the Air Staff directly under the Deputy Chief of the Air Staff.

The first Air Judge Advocate was Colonel Edgar Harvey Snodgrass, then a Regular Major in the Judge Advocate General's Department, but a Colonel in the Army of the United States Air Corps. Colonel Snodgrass, a native of Tennessee, graduated from West Point in June 1917. He attended the School of Law at Columbia University from 1927 to 1928 and the University of Tennessee from 1932 to 1934. Colonel Snodgrass, at the time of his appointment as Air Judge Advocate in 1942, had served continuously in the Air Corps since 1935. He served as Legal Advisor to the Contracting Office at Wright

Field, Ohio (1935-1938); Chief of the Patents Section, Office of The Chief of the Air Corps at Washington, D.C. (1938-1940); and Chief of the Legal Division, Office of The Chief of the Air Corps at Washington, D.C. (1940-1942). The title Air Judge Advocate General was discontinued shortly after its introduction in March 1942, and Colonel Snodgrass was thereafter designated Air Judge Advocate.

The second Air Judge Advocate was Brigadier General Lawrence Hyskell Hedrick, who assumed this position in the summer of 1943. General Hedrick was born in 1880 in Warren County, Indiana. He graduated from the University of Missouri with a Bachelor of Laws degree in 1905. He performed his first 12 years of duty in the Army as an infantry officer and was assigned to the Judge Advocate General's Department in 1920. General Hedrick served as The Air Judge Advocate from July 1943 to October 1945.

General Hedrick was succeeded by Colonel Desmond O'Keefe. Colonel O'Keefe graduated from West Point in August of 1917. He received the degree of Juris Doctor from Northwestern University School of Law in 1931. At the time of his appointment, Colonel O'Keefe held the permanent rank of Lieutenant Colonel, Judge Advocate General's Department, U.S. Army, and Colonel, Judge Advocate General's Department, Army of the United States. During World War II, Colonel O'Keefe had functioned in various Army Air Forces assign-

ments, principally in India and the Far East. Colonel O'Keefe served as Air Judge Advocate from 1945 until September 1948.

The position of Air Judge Advocate of the Army Air Forces was an anomalous one. The incumbent was the chief legal officer for that entire branch of the Army, although there was no comparable legal officer for the Army Ground Forces or the Services of Supply. The work of The Air Judge Advocate covered the wide range of air operations which existed during the war. Some 1200 legal officers were assigned to the Army Air Forces. The Office of The Air Judge Advocate was organized with two Assistant Air Judge Advocates. Structurally, the Office consisted of an executive office plus six divisions: Military Justice; Military Affairs; Patents; Contracts and Claims; Litigation; and Legal Assistance. This organization is not too dissimilar from that existing today in the Office of The Judge Advocate General, Headquarters, United States Air Force.

The Department of the Air Force was established by the National Security Act of 1947. The Office of The Judge Advocate General, United States Air Force, was authorized by the Act of 25 June 1948. To assist the Office of The Judge Advocate General, the Judge Advocate General's Department was administratively established by the Department of the Air Force on 25 January 1949.

The Judge Advocate General's Department was initiated on 8 July

1948, at which time 144 Regular Air Force officers and 61 Air Force Reserve officers on active duty were certified as judge advocates. Of this original group of Regular officers, 62 had been officers in The Judge Advocate General Corps of the United States Army and had transferred to the Air Force subsequent to its establishment. Today, The Judge Advocate General's Department is a vast, yet closely cooperating, organization of some 1200 judge advocates and 200 civilian attorneys. Within the Department exists the Office of The Judge Advocate General, which is located in Washington, D.C.

The first Judge Advocate General of the United States Air Force was Major General Reginald C. Harmon. General Harmon was born in 1900 on a farm near Olney, Illinois. He graduated from the University of Illinois with the degree of Bachelor of Laws in 1927 and was awarded the honorary degree of Doctor of Laws by the National University at Washington, D.C. in 1951. General Harmon began his military career at the University of Illinois as a cadet in the Reserve Officers Training Corps, which led to his being commissioned a second lieutenant in the Field Artillery Reserve in 1926. In 1940 General Harmon was called to active duty as a major in the Army. Assigned to the Air Corps as a judge advocate, he was instrumental in the success of the complicated air procurement program during the war. From 1945 to 1948, he was the Staff Judge Advocate of the Air Materiel

Command. On 8 September 1948, he was appointed the first Judge Advocate General of the United States Air Force and promoted to the rank of Major General. General Harmon was extended in 1952 and 1956. General Harmon's long career, spanning the first 12 years of Air Force JAG, witnessed the development of a large and efficient law organization.

The second Judge Advocate General of the Air Force was Major General Albert M. Kuhfeld. General Kuhfeld was born at Hillyard, Washington, on 25 January 1905. He received his Bachelor of Laws degree from the University of Minnesota in 1926. Following graduation, he practiced law in Minnesota for a brief period and then moved to North Dakota in 1934 where he served as Assistant Attorney General from 1934 to 1939. General Kuhfeld was called to active duty in March of 1942 and was immediately assigned as a judge advocate. During the war he served with the Fifth Air Force in the Southwest Pacific and was appointed Staff Judge Advocate of the Fifth Air Force in 1944. After the war he served first in the Office of The Air Judge Advocate in Washington, D.C.; then as the Staff Judge Advocate, Headquarters, Air Transport Command, in Washington, D.C. In August of 1947, at his request, he was transferred to the Army Air Forces, which later became the United States Air Force. General Kuhfeld was appointed Brigadier General in 1949 and, on 20 February 1953, he was appointed

The Assistant Judge Advocate General, United States Air Force. He was promoted to Major General on 27 October 1954, and on 1 April 1960 he was appointed The Judge Advocate General, United States Air Force.

The third Judge Advocate General of the United States Air Force was Major General Robert William Manss. General Manss was born on 1 June 1909 in Cincinnati, Ohio. He received his degree of Bachelor of Arts from the University of Michigan and his Bachelor of Laws degree from the University of Cincinnati. He practiced law in Cincinnati from 1933 to 1942 when he enlisted in the Army Air Corps. He completed Army Air Corps Officers Candidate School in 1942, and later he completed the Army Air Corps Intelligence School. In 1946 he was released from active duty and returned to his private law practice. General Manss accepted a Regular Air Force commission in July of 1947 and was assigned to the Office of the Staff Judge Advocate, Headquarters, Air Materiel Command, Wright-Patterson Air Force Base, Ohio, where he served until 1952. General Manss then served in assignments as staff judge advocate, Northeast Air Command, Pepperell Air Force Base, Newfoundland; staff judge advocate, Air Research and Development Command, Andrews Air Force Base, Maryland; and in the Office of the Judge Advocate General, Headquarters, USAF, as Assistant Chief, Military Affairs Division; Chief, Tax and Litigation Division, and as The Assistant

Judge Advocate General. On 1 October 1964, General Manss was appointed by President Johnson as The Judge Advocate General, USAF, with the grade of Major General, where he served until 30 September 1969.

The fourth Judge Advocate General of the Air Force was Major General James S. Cheney. General Cheney was born in Tucson, Arizona. He attended Atlanta Law School from 1939 to 1941 and received his LL.B degree in 1950. He began his military career as an aviation cadet in October 1941. During World War II, he served as a navigator in combat operations. From 1946 to 1950 he served as legal officer and staff judge advocate in Europe and the United States. In July 1950, he was assigned to the Third Bomb Group and flew combat missions in Korea. In 1954 he came to Headquarters and served as member and later Chairman of a Board of Review. In 1957 he became the Executive to The Judge Advocate General and served in that capacity until 1960. He then went to England as Staff Judge Advocate, Third Air Force. Following this tour, he became Deputy Staff Judge Advocate, HQ USAFE. In 1964 he returned to the Office of The Judge Advocate General as Director of Military Justice. In July 1967, General Cheney became Staff Judge Advocate, HQ PACAF. He returned to OTJAG as Assistant Judge Advocate General in February 1969 and was appointed by President Nixon to be The Judge Advocate General

effective 30 September 1969, where he served until October of 1973.

The fifth and present Judge Advocate General, is Major General Harold R. Vague. General Vague was born in Ellsworth, Kansas. He graduated from the University of Colorado in 1942 and entered Colorado Law School. In March 1942, he began his military career as an aviation cadet and was commissioned as a navigator in 1943. During World War II, he flew 25 combat missions as a navigator. After completing law school, he went to Biggs AFB, Texas, as a navigator-bombardier in B-50 aircraft. He next went to 8th Air Force as Assistant and later Chief of the Military Justice Division. In 1956 he became associate professor of law and assistant staff judge advocate at the Air Force Academy. He next served as Staff Judge Advocate, Third Air Division, Anderson AFB, Guam. In 1961 he was assigned to the Office of The Judge Advocate General as Chief, Legislation Division. He went from there to 15th Air Force as Staff Judge Advocate. In 1969 he became Staff Judge Advocate, HQ PACAF. He was ap-

pointed Assistant Judge Advocate General on 1 September 1971, and Judge Advocate General on 1 October 1973.

Over the past 27 years, the Office of The Judge Advocate General and the Judge Advocate General's Department has grown from a small organization of less than 100 to a large, world-wide law office of approximately 1400 lawyers. Its work spans the wide spectrum of the various Air Force activities which it serves. From the traditional practice of military justice and contracts to the newer problems of "sonic boom" and space law, the Air Force JAG has accomplished its varied mission with success. It is with this knowledge that Air Force JAG members, past and present, are able to look back with pride over their organization's history. To its sole client, the United States Air Force, however, this history has an even more important meaning: Air Force Judge Advocate General's Department now has more than a generation of experience which will better enable it to meet the military legal challenges of the future.



Judge Advocate of the Marine Corps

An Old Corps Billet Answers a New Corps Challenge

Colonel Robert J. Chadwick, USMC

Judge Advocate of the Marine Corps—it's a modern billet with a history of only five years but with a hundred year tradition extending back to the early annals of the Corps. The old Corps and the new breed—they're basically the same despite the passage of time. Today's Marine Officer lawyer appears the same as his old Corps predecessor. He looks exactly like every other Marine. Although its lawyers are called judge advocates by statute, the Marine Corps has no subordinate JAG Corps. There is no distinctive collar or sleeve insignia to set the Marine attorney apart from his line associates. His recognition as a qualified attorney must depend on his demonstrated performance in the field.

One thing new has been added however: a star at the top. Since 1969, the Commandant's staff judge advocate has held the grade of Brigadier General. Marine officers in the legal field have thus been assured of the opportunity for a full career pattern. They can realistically aspire to selection to flag grade.

The Marine Corp's senior attorney also serves as the Director of the Judge Advocate Division at Headquarters Marine Corps in Washington, D.C. From that van-

tage point he coordinates all legal activity throughout the Corps and with the personnel planners helps to guide the destinies of Marine attorneys throughout the world.

The old Corps too had its senior judge advocate. But the Marine Corps is made of men not titles, a few good men who leave their indelible legacy for those who follow. The Corps' attorneys started at the top. A civil war veteran, Captain William Butler Remy, U. S. Marine Corps, served two tours of duty in the 1870's as "judge advocate of the Marine Corps". He subsequently was designated acting judge advocate of the Navy in 1878. In 1880, to fill the billet created by Congressional enactment that year, Captain Remy was appointed as the first Judge Advocate General of the Navy with the grade of Colonel. He held that office for 12 years. Although in subsequent years, Marines were not appointed to that august position and the billet of judge advocate of the Marine Corps was discontinued, the guidance of Marine attorneys was continually afforded to Headquarters Marine Corps and field commands. For almost one hundred years they've kept their standards high albeit their ranks were small. From the effective date of the Uni-

form Code of Military Justice and the Manual for Courts-Martial in 1951, senior Marine attorneys served the Corps as Heads of the Discipline Branch in the Personnel Department at Headquarters Marine Corps.

They were quality Marines—proud of their Country and Corps. They served them well. The Corps remembers:

Colonel James C. Bigler
Colonel St. Julien Marshall
Colonel Paul D. Sherman
Colonel John S. Twitchell
Colonel Hamilton M. Hoyler
Colonel Robert A. Scherr, and
Colonel Robert B. Neville.

During the post World War II years, unrestricted regular Marine Corps officers received legal training and degrees through the Navy Postgraduate Law Program (the Program was terminated by Congress in the mid 1950's and has just recently been reauthorized). The subsequent Marine Corps assignments of graduates from this program included both line and legal duties. Recognition of the expanded role of Marine attorneys in serving commanders in the field followed in 1958 when Marine Corps regulations were changed to permit regular unrestricted officers to hold a primary legal MOS (Military Occupational Speciality). Prior to that time such a MOS could only be a secondary one. Administrative steps were also taken to ensure equal promotion opportunity for officers holding a primary legal MOS. Throughout this period the

legal MOS had been included in the personnel and administration field. However, in 1962 an independent legal occupational field was established.

Then in 1966 the Commandant, General Wallace M. Greene, Jr. decided that he wanted his legal advisor to be a general officer. The Commandant so informed congress and a general officer's billet was authorized on that basis. The first selectee in 1966 (with date of rank in 1967) was Brigadier General James F. Lawrence, then serving on the staff of the Secretary of Defense. His importance to the Secretary was exemplified by the fact that he was never released from his OSD position as Deputy Assistant to the Secretary of Defense (Legislative Affairs) to fill that legal billet at Headquarters Marine Corps.

Although never authorized to wear the star their billet then deserved, Colonels Charles B. Sevier, USMC (1966-1968) and Marion G. Truesdale, USMC (1968-1969) ably headed the Discipline Branch within the Personnel Department at Headquarters Marine Corps during the period following. It was under Charley Sevier's imaginative leadership in 1968 that the Discipline Branch at Headquarters Marine Corps came of age, was separated from the Personnel Department, redesignated as the Judge Advocate Division and emerged as a vital, functional, independent organization to be headed by a general officer who was also a judge advocate.

The birth of the Judge Advocate Division on 17 April 1968 was accomplished entirely as a matter of staff reorganization within Headquarters Marine Corps. It was one of those rare opportunities where, in a step so rich in promise could be taken at no cost to the government and with so little disruption of the Headquarters.

The Marine officer selected for promotion to Brigadier General as the senior judge advocate in the newly created Judge Advocate Division would become in effect the new holder of the old Corps billet of Judge Advocate of the Marine Corps. History had run full cycle. His official title, however, would be Director, Judge Advocate Division with additional duties as Staff Judge Advocate for the Commandant of the Marine Corps. This choice of official title was in recognition of and deference to the fact that there was only one Judge Advocate General within the Department of the Navy.

The Staff Judge Advocate for the Commandant acts as legal advisor to the Commandant and his staff in all areas of law except business and commercial affairs. (Business and commercial affairs are handled by a representative of the office of the General Counsel of the Navy). The Staff Judge Advocate also serves as the staff legal officer to the Commandant in those matters requiring the Commandant's personal action under the Uniform Code of Military Justice and further advises and assists the Commandant and his staff in all mat-

ters relating to military law and its administration throughout the Marine Corps. He represents the Commandant in contact with agencies, both within and external to the government, whose principal concern is the administration of law and related matters. He also maintains liaison with the Judge Advocate General of the Navy to ensure coordination in the administration of military law and in the development of policies relating thereto in the Naval Service.

The reorganization afforded the Director, Judge Advocate Division, the opportunity to consolidate and coordinate legal services within the Headquarters. The Judge Advocate Division was designed to provide a single source of legal advice within the Headquarters on all noncommercial matters. It permits other staff agencies to make plans and direct actions with proper advice—professional advice not given as a personal favor but as an action in which the adviser places his reputation on the line. It provides the staff section that has the clear responsibility to supply an interpretation of applicable law and the limits that such law may place on any proposed action.

Staff functioning of the 15 officers, 10 enlisted personnel and 14 civilians within the Judge Advocate Division was streamlined with the establishment of four functional subordinate branches:

- a. Military Law,
- b. Research and Plans,
- c. Legal Assistance, and

d. General Law, Regulations and Reference.

However, it is the Director who remains charged with the ultimate responsibility of supervision of and assistance to legal and paralegal personnel at the working level.

It was in August of 1969, that the senior legal billet and its attendant grade were permanently joined. Colonel Duane Faw, USMC, an appellate judge on the Navy Court of Military Review, was promoted to Brigadier General and became the Commandant's staff judge advocate and the Director of the Judge Advocate Division. General Faw, a graduate of Columbia University School of Law and naval aviator who had participated in aerial combat in the Pacific during World War II, had served in many legal billets throughout the world during his Marine Corps career. He had also served as Commanding Officer of a Marine infantry battalion during peacetime and as the Deputy Chief of Staff and Force Legal Officer for the III Marine Amphibious Force during combat in Vietnam.

Under Brigadier General Faw's judicious hand the policies and plans of the fledgling Judge Advocate Division were given direction and firm guidance. The assigned personnel were molded into a functional team. Yet, all the Corps knew that the Division existed not to levy more requirements on already overburdened field commands but to serve—both the field and the head-

quarters. The spirit was one of cooperation and coordination.

After two years as director, Brigadier General Faw voluntarily retired to ensure the opportunity for promotion to others. Colonel Clyde R. Mann, possessor of broad experience as a Marine and attorney in the field and at Headquarters was selected for the top legal billet and promoted to Brigadier General on 1 September 1971. His prior career had groomed him well for the billet. He had been a sea-going Marine officer who maintained a tradition of graduating first in his class at almost every service school he attended. He proudly wore the wings of a Naval Aviation Observer and had G-3 experience at both Division and Headquarters levels. A law review and Order of the Coif graduate of the Naval Postgraduate Law Program he served in many legal billets including that of staff judge advocate of major Marine commands in combat and in the United States. Immediately, prior to his promotion he had been the class president and a Distinguished Graduate of the College of Naval Warfare at the Naval War College.

Energetic, thorough and conscientious Brigadier General Mann ensured that service and competency become the watchwords within the Judge Advocate Division from the fall of 1971 until his retirement on 15 July 1973. He was a member of the Task Force on the Administration of Military Justice in the Armed Forces, he pinpointed the restrictive number of lawyer

billets and initiated changes which reflected the true lawyer requirements within the Marine Corps. He assisted in coordinating the Marine input into Operation Homecoming as our prisoners of war returned from Vietnam and made arrangements to have Marine attorneys assist U. S. attorneys in the field handling matters of interest to the Marine Corps.

Upon General Mann's retirement, Colonel John R. De Barr was selected to become staff judge advocate to the Commandant and director of the Judge Advocate Division. He served in the billet as a Colonel until the next Marine Corps general officer promotion Board met in February 1974. Following selection by the promotion board he was promoted to his present grade of Brigadier General on 10 April 1974. He and his staff are charged with the responsibility to direct and guide Marine Corps legal services as the Corps enters its post-war era.

As did his predecessors, Brigadier General De Barr comes well prepared to his assignment. He has had a varied, interesting and responsible career. He holds a Juris Doctor degree from George Washington University. He was a platoon commander in the Iwo Jima campaign and participated in the occupation of Japan during World War II. He served as a military observer for the United Nations

Truce Supervision Commission in Palestine from 1953 to 1955. His varied legal assignments include duty as a senior general court-martial military judge in Vietnam and the United States and as staff judge advocate for major Marine Corps commands. Immediately prior to his current assignment he served in the Office of the Secretary of Defense as Deputy Assistant to the Assistant Secretary of Defense (Legislative Affairs). History will record the accomplishments achieved under his current leadership.

Thanks then to this leadership of prior Marine Officer lawyers, the Marine judge advocate today is an integral part of the Corps not a rejected outsider. He achieves and maintains the confidence and respect of his client—be that client rifleman, battalion commander or the Commandant—because that lawyer's been there with them: in training, war and peace. This mutual sharing of the good times and the bad deepens the attorney-client relationship and gives continued revitalization to the Corps' tradition that it takes care of its own. All current Marine judge advocates, be they Captain or Brigadier General, share this legacy of professionalism and pride derived from the old Corps and bear the responsibility to pass that heritage on untarnished to their successors yet to come.

Historical Evolution of the Office of Chief Counsel United States Coast Guard

The present-day Office of Chief Counsel, United States Coast Guard, had its origin as a branch within the Office of Operations. This Branch was established following enactment of the Act of Congress of 26 May 1906 which created a military discipline system for the Revenue Cutter Service. The Military Discipline Branch remained in the Office of Operations following the creation of the United States Coast Guard on 28 January 1915 with the merger of the Revenue Cutter Service and the Life-saving Service. The function of the Branch during these early years was primarily to review the several types of Coast Guard courts, preparation of action thereon for the Secretary of the Treasury and other matters relating to military discipline. Mr. Edward P. Harrington served as the head of the Military Discipline Branch and held the title of Chief Legal Officer.

The Revenue Act of 1934 placed all legal duties and functions of the Department of the Treasury in the newly created Office of the General Counsel. As a result, a Legal Division was established as a part of the organization of Coast Guard Headquarters with the division chief being designated Chief Counsel. Mr. Joseph P. Tanney became the first Chief Counsel when he succeeded the retiring Mr. Harrington.

The Revenue Act of 1934 and the efforts of Mr. Herman Oliphant, the first General Counsel of the Treasury Department, brought about a substantial enlargement in the functions and responsibilities of the new Legal Division of the Coast Guard. In addition to matters involving military discipline previously handled by the Branch, a legal advisory service to administrative officers of the Coast Guard was created which called for the rendition of legal opinions, formal and informal, by the Chief Counsel. Moreover, all legal work in connection with contracts, real estate, legislation, regulation review, and related matters were regularly assigned to the Legal Division as being within its scope of responsibility.

Mr. Kenneth F. Harrison assumed the position of Chief Counsel in 1938 upon Mr. Tanney's resignation to enter the private practice of law. The outbreak of war in Europe was swiftly followed by the Neutrality Act of 1939. This Act, together with the transfer of the Lighthouse Service to the United States Coast Guard in the summer of 1939, resulted in a considerable increase in the functions and duties of the Coast Guard and its Legal Division. This growth of responsibility required an increase in resources and therefore several attorneys, stenographers, and clerks were assigned to the Legal Division

and the position of Assistant Chief Counsel was created. A short time later, when President Roosevelt declared a State of Limited National Emergency and activated the Espionage Act of 1917, a Port Security program was established with extensive organization, regulations and responsibilities. The size of the United States Coast Guard continued to increase, and the passage of emergency legislation, such as the Coast Guard Reserve Act, added to the duties and responsibilities of the Legal Division. The transfer of the Coast Guard to the U. S. Navy on 1 November 1941 created several legal problems, particularly with respect to the transition from the Coast Guard disciplinary system to that of the Navy under the Articles for the Government of the Navy. The sudden entry of the United States into World War II on 7 December 1941 resulted in a rapid expansion of the Coast Guard to carry out its war missions. Since almost all of the attorneys in the Legal Division, including the Chief Counsel, were civilians at this time, most of them were commissioned in the Coast Guard Reserve.

Coast Guard regulations in 1940, for the first time, provided for a law officer as a member of the staff of each District Coast Guard office. As these positions were filled, law officers were also provided to Captains of the Port at the major ports and the major independent units such as Supply Depots and Training Stations. The Legal Division at Coast Guard Headquarters faced difficult problems during the first

year of World War II. In addition to the increased demand for opinions, legal advice and other legal functions, the recruitment and indoctrination of law officers and the setting up of a servicewide legal organization required considerable time and attention. The Legal Division was now required to provide the full range of advice and opinion not only to the administrative officials at Coast Guard Headquarters but also to District Coast Guard offices.

Executive Order 9083, which became effective on 1 March 1942, transferred to the Coast Guard the major functions of the former Bureau of Marine Inspection and Navigation. This move resulted in an extensive field of new legal activity for the Legal Division. For the first time, the Coast Guard was vested with authority to regulate certain phases of an industry—namely, the administration of vessel inspection and navigation laws. These statutes encompassed a system that had grown on a more or less piecemeal basis for a hundred and fifty years; they were difficult of construction and interpretation, particularly in view of the special considerations and adjustments resulting from the emergency conditions arising from the war. To handle this new workload, a special section in the Legal Division was created and designated the Admiralty and Maritime Section.

At this time the Legal Division at Coast Guard Headquarters was organized into eight sections reporting to the Chief Counsel

through the Assistant Chief Counsel. The sections were:

- Opinion Section;
- Port Security Section;
- Admiralty and Maritime Section;
- Contracts Section;
- Real Estate Section;
- Courts and Boards Section;
- Legislative Section; and,
- Patent Section.

In addition, there were several Special Assistants to the Chief Counsel who were assigned special projects and tasks not falling within the cognizance of any particular section.

The Office of the District Law Officer in each district was organized along the same lines as that of the Legal Division at Headquarters, except that in the small offices the work of several sections was combined into one. There were, of course, no legislative or patent sections on the district level. During World War II, the staff of the Legal Division was composed of approximately 25 attorneys and 25 non-lawyers. There were approximately 80 officer-lawyers assigned to legal work in the field offices.

With the end of World War II and the resultant massive demobilization, the civilians that had been commissioned as reserve officers reverted to their civilian status and many returned to private practice. The post-World War II period contained few legal billets for active duty Coast Guard officers with law degrees. In late 1947, for instance, of the 21 people assigned to the

Legal Division in the Coast Guard Headquarters only three were commissioned officers, the remaining 18 were civilians. There were no field personnel whose time was fully devoted to the handling of the legal matters that arose in the various Coast Guard District offices. The legal section headed by the District Law Officer, that had existed in each District office during World War II, had been consolidated in July of 1947 into an organizational component headed by an officer designated as the Legal and Intelligence Officer. This office was responsible to the District Chief of Staff for the performance of all duties other than those pertaining to legal matters. In the performance of legal duties, he advised the District Chief of Staff, but was responsible to the Legal Division and the Chief Counsel at Coast Guard Headquarters.

During the late 1940's, some lawyers returned to active duty in the Coast Guard after a brief period of private practice as civilians. Despite the paucity of legal billets for military lawyers following World War II, many ended up in quasi-legal assignments that utilized their legal talents and training such as Marine Inspection and Investigation Office, Captain of the Port Offices, and Port Security units.

The advent of the Uniform Code of Military Justice (UCMJ) in 1950 created an immediate need for legal officers in the Coast Guard Districts. The requirements of the UCMJ resulted in the establishment

of a single legal billet in each Coast Guard District Office as the Staff Legal Officer. To fill these billets, the Coast Guard utilized some of the lawyers commissioned during World War II. The need existed, however, for career-oriented lawyers and the Coast Guard instituted a program of post-graduate education in law for regular Coast Guard officers. Beginning prior to the effective date of the UCMJ, five Coast Guard officers entered law school in 1949-1950. Each year thereafter, varying numbers of officers received assignments to law schools, the number stabilizing at two per year by the mid-1950's and continuing until 1969. The increased legal responsibilities and workload resulting from the UCMJ also caused a number of military lawyers to be added to the Legal Division at Coast Guard Headquarters as "Special Assistants to the Chief Counsel".

When the Office of the General Counsel of the Treasury Department was created and the Legal Division in Coast Guard Headquarters was established, the Chief Counsel and his staff in the Legal Division operated under the nominal supervision of the General Counsel of the Treasury Department, even though its function was to provide full legal services to the Commandant and other administrative officers of the Coast Guard. This situation pertained from 1934 until the transfer of the Coast Guard to the newly created Department of Transportation in 1967. In addition to departmental rather than agency supervision of the

Chief Counsel and his staff, there existed, following transfer of the Coast Guard in 1967, a lack of assigned functions in certain areas and ill-defined responsibilities of positions and billets. As a result, the Administrative Management Division of the Coast Guard instituted a study of the Legal Division in 1968. Action taken on the recommendations of this study resulted in the Legal Division being transformed and reorganized into the Office of Chief Counsel, responsible directly to the Commandant of the Coast Guard.

The Office of Chief Counsel is now composed of seven divisions as follows:

- Maritime and International Law Division;
- Claims and Litigation Division;
- Military Justice Division;
- Procurement Law Division;
- General Law Division;
- Regulations and Administrative Law Division; and
- Legislation Division.

In addition, the Legal Services Staff and the full time military judiciary are responsible directly to the Chief Counsel. This reorganization also established the position of Chief Counsel as a military billet with a rank, as any other Office Chief, of Rear Admiral. Rear Admiral William L. Morrison, U.S.C.G., became the first military Chief Counsel in 1968 and served until 1973 when he was relieved by Rear Admiral Ricardo A. Ratti, U.S.C.G., the present Chief Counsel of the Coast Guard.

JAA Presents Bicentennial Plaque to CMA

At 1130 hours on 29 July 1975, Colonel William L. Shaw of Sacramento, California, then the President of JAA, at a ceremony in the Court Room of the United States Court of Military Appeals in Washington, D.C. presented to the Court for the members of the Association a bronze plaque bearing the seal of the Judge Advocates Association and inscribed:

IN COMMEMORATION OF
THE BICENTENNIAL
OF
THE NATION
AND IN HONOR OF
THE LAWYERS
WHO HAVE SERVED
IN THE ARMED FORCES
OF THE UNITED STATES
OF AMERICA
1775 - 1975

PRESENTED BY THE MEMBERS OF THE
JUDGE ADVOCATES ASSOCIATION
TO THE UNITED STATES COURT
OF MILITARY APPEALS
AT WASHINGTON, D.C. ON 29 JULY 1975

The date of the presentation was selected because it was the 200th anniversary of the appointment by the Continental Congress of William Tudor to the position of Judge Advocate of the Army. Colonel Shaw made appropriate historical references in his presentation and Mr. Michael Katen, Clerk of the Court, for the Court, then in recess, accepted the plaque. The plaque has now been installed on the wall to the right of the main entrance to the Court Room as a permanent indication that like "Kilroy", JAA was there for the celebration of the bicentennium

of the Nation and that it honors all those lawyer-soldier-sailor-airmen who have served in the long line that began with William Tudor in 1775.

Attending the ceremony were Major General Harold R. Vague, TJAG, Air Force; Rear Admiral Horace G. Robertson, TJAG, Navy; Major General Wilton B. Persons, TJAG, Army; Honorable Michael Katen, Clerk, CMA; Mr. Francis X. Gindhart, Commissioner, CMA; RAdm. William O. Miller; RAdm. Donald D. Chapman, MGen. Kenneth J. Hodson; BGen. Thomas H. King, Colonels James A. Bistline, Jerry E. Conner, Maurice F. Biddle, Charles A. Munnecke, Forrest S. Holmes, Eli Nobleman, Clifford A. Sheldon, Richard A. Bednar, William L. Shaw, Richard H. Love; Captain Penrose Lucas Albright, Cdr. Donald H. Dalton; Messrs. Neil B. Kabatchnick, William R. Robie and Thomas Morgan and others who did not sign the roster.

The ceremony was followed by a luncheon at the Army and Navy Club hosted by Colonel Shaw, Chairman of JAA's Bicentennial Committee.



INCUMBENT TJAGs AS OF 4 JULY 1976 AND THEIR PREDECESSORS

The Judge Advocates General of the Services on duty as of the 4th of July 1976 are:

Major General Wilton B. Persons, Jr.,
The Judge Advocate General of the Army

Rear Admiral Horace B. Robertson,
The Judge Advocate General of the Navy

Major General Harold R. Vague,
The Judge Advocate General of the Air Force

Brigadier General John De Barr,
Director of the Judge Advocates Division
United States Marine Corps

Rear Admiral G. H. Patrick Bursley,
Chief Counsel
United States Coast Guard

The commissioned officers who were their predecessors in the office in the Army, Navy and Air Force, listed with the period of their services are:

The Judge Advocates General, United States Army

Colonel William Tudor.....	July 29, 1775—Apr 9, 1777
Colonel John Lawrence.....	Apr 10, 1777—June 3, 1782
Colonel Thomas Edwards.....	Oct 2, 1782—Nov. 3, 1783
Captain Campbell Smith.....	July 16, 1794—June 1, 1802
Brevet Major John F. Lee.....	Mar 2, 1849—Sept 3, 1862
Brevet Major General Joseph Holt.....	Sept 3, 1862—Dec 1, 1875
Brigadier General William M. Dunn.....	Dec 1, 1875—Jan 22, 1881
Brigadier General David G. Swaim.....	Feb 18, 1881—Dec 22, 1894
Brigadier General G. Norman Lieber.....	Jan 3, 1895—May 21, 1901
Brigadier General Thomas F. Barr.....	May 21, 1901—May 22, 1901
Brigadier General John W. Clous.....	May 22, 1901—May 24, 1901
Major General George B. Davis	May 24, 1901—Feb 14, 1911

JUDGE ADVOCATES ASSOCIATION

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By virtue of being a past president of JAA:

Penrose L. Albright, Virginia; Nicholas E. Allen, Maryland; Daniel J. Andersen, D. C.; Glenn E. Baird, Illinois; Maurice F. Biddle, Virginia; James A. Bistline, Virginia; Ernest M. Brannon, Maryland; Richard A. Buddeke, Maryland; Robert G. Burke, New York; Edward R. Finch, Jr., New York; John H. Finger, California; Osmer C. Fitts, Vermont; Reginald C. Harmon, Virginia; Hugh H. Howell, Jr., Georgia; Herbert M. Kidner, Virginia; Thomas H. King, Maryland; Allen G. Miller, New York; Alexander Pirnie, New York; John Ritchie, Virginia; William L. Shaw, California; Gordon Simpson, Texas.

Executive Secretary and Editor

RICHARD H. LOVE
Washington, D. C.

