

The Judge Advocate JOURNAL



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JUDGE ADVOCATES ASSOCIATION

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Executive Secretary and Editor

RICHARD H. LOVE
Washington, D. C.

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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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TARGET AREAS OF INTEREST — THE WIDE RANGE OF JUDGE ADVOCATES' RESPONSIBILITY

By Wilber M. Brucker*

I. Introductory

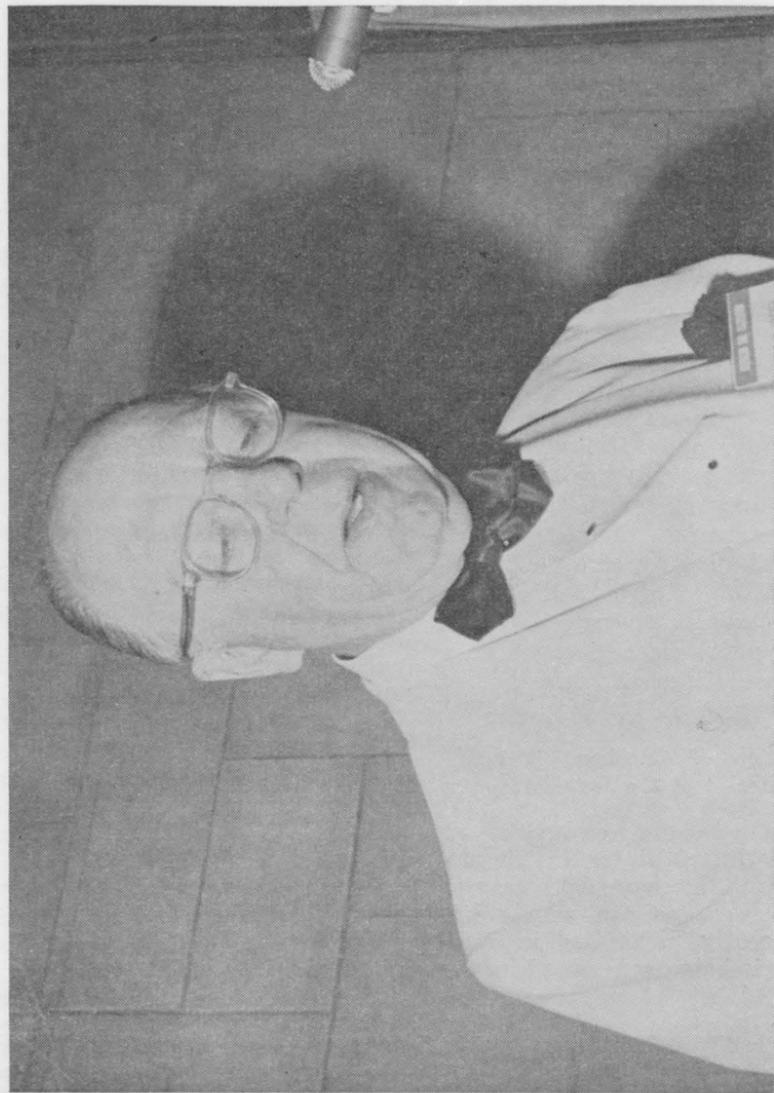
We share a devotion to the two institutions which I hold in highest esteem, the Armed Forces of the United States and the legal profession. Your service as a Judge Advocate permits you, at one and the same time, to serve in the finest Army, Navy and Air Force in the world, while actively practicing law for the finest client in the world, the Government of the United States. The luxury of such combination is one which each of you, as a Judge Advocate, enjoys, whether your service is performed on active duty or as a member of the Reserve.

II. Areas of American Foreign Policy Interest of the Judge Advocate

Discussions are occurring all over the United States at this moment about the proposed treaty to ban nuclear testing—which has been recently negotiated in Moscow and is being considered by the Senate. Most of us recall that

during the Eisenhower Administration, in 1958, there was an oral agreement between the United States and Russia to stop nuclear testing, which lasted until September, 1961, when Soviet Russia "came out swinging" with a series of atmospheric tests of their own in plain violation of the agreement. Since these Soviet nuclear tests, Khrushchev has said that Russia has solved the large megaton-size nuclear weapon to Russia's satisfaction. He also boasts that the Soviets have perfected the anti-missile-missile. Hence, the Russians claim to have all they need except those nuclear weapons in the very small tactical range—which may be done in underground testing, which the proposed treaty would sanction. Many Americans will be distressed that our country, which hopefully indulged in a voluntary test ban of our own for several years is now expected to forego any efforts toward perfection of our own nuclear arsenal—especially the anti-missile-missile which requires atmospheric testing—and which the

* This is the address given by Mr. Brucker at the Annual Banquet of the Judge Advocates Association at its meeting in Chicago, Illinois, on 12 August 1963. Mr. Brucker, a practicing member of the bar of the City of Detroit, was formerly the Secretary of the Army, General Counsel of the Department of Defense, Governor of the State of Michigan, and a soldier and officer with active service on the Mexican Border and in World War I.



Mr. Brucker delivering his address to the Association.

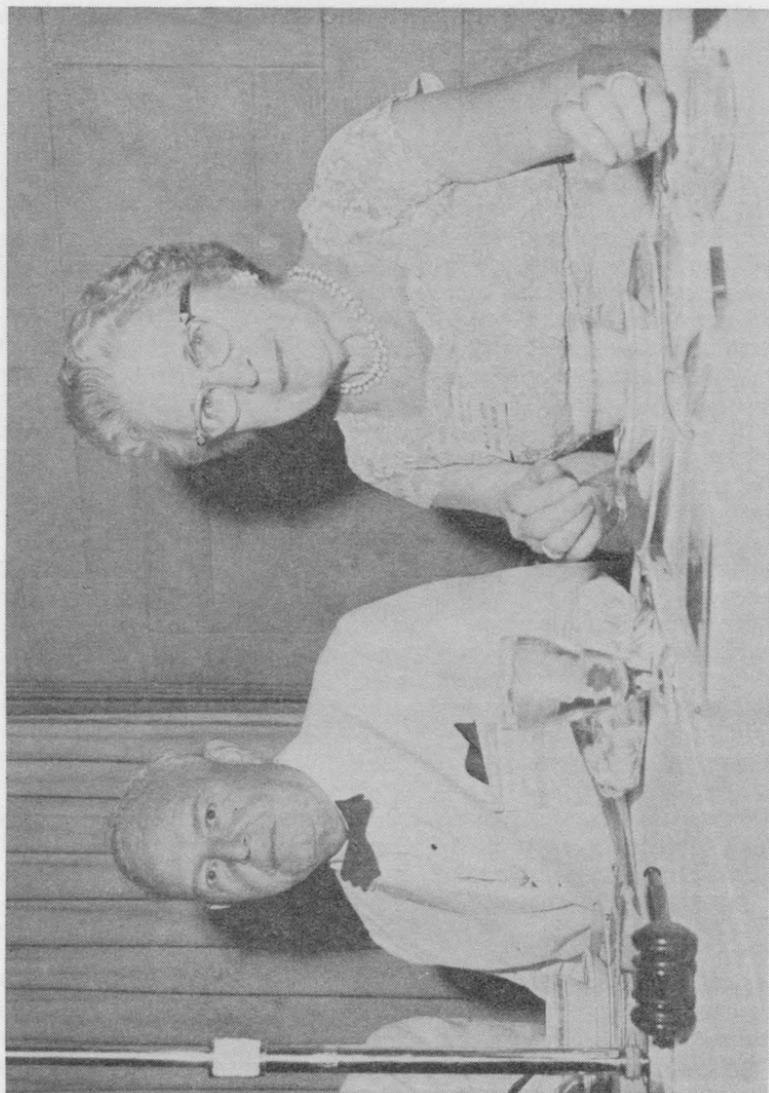
Soviets claim to have perfected. One cannot help but be cautious about such a situation. Nearly everyone wants to ban nuclear warfare and America has amply demonstrated its sincerity by its forbearance of testing. However, we must not rush pell-mell into a treaty without letting everyone know that for all practical purposes we are stopping the development and completion of that defensive weapon-of-weapons — the anti-missile-missile—on the threshold of its perfection by American scientists. In short, let our people go into this Treaty with their eyes open, knowing that Russia claims to have this nuclear anti-missile defense against our nuclear bombs, but that America is foregoing the protection of her anti-missile-missile against Russian nuclear bombs.

If testing of nuclear weapons is banned and there should be a nuclear stalemate, it is interesting to note that this will elevate the importance of our conventional warfare defenses. It is fortunate that America does not find itself unprepared in such conventional weapons. We steadfastly refused to base our entire defenses upon the nuclear one-weapon theory. In spite of insistence over several years by many misguided people that America should base its entire defenses upon the nuclear bomb, to the exclusion of keeping up our conventional defenses—it is comforting to know that our country refused to “put all our eggs in the nuclear basket”, but insisted on

keeping up our conventional defenses.

Red China is anxious to demonstrate to Russia and the world its aggressive, warlike philosophy: that the way to conquer the United States and the world is to engage in a “hot” war. There seems to be little doubt that Red China is spurring North Koreans to rash attacks at our D.M.Z. line—ambushing, killing and wounding American troops—trying to produce “an incident.” We can only speculate how much prestige the United States lost in Asia, and how much fuel was added to Red Chinese ambitions when American troops were not allowed to push the Red Chinese back beyond the Yalu River, and General MacArthur was ordered home.

It is an open secret that Red China is massing its troops along the Indian border, ready to attack at any time. In Laos, it would be no surprise to have Red Chinese overrun that country any day and be poised to invade Thailand. Vietnam is close to the Red Chinese orbit and guerilla attacks have been stepped up and have become aggressive at a place where the Red Chinese can confront America with a challenge to the whole Indo-China Peninsula. Truly, we cannot afford to let down our guard one moment. Judge Advocates should become thoroughly familiar with every phase of America’s foreign policy commitments so as to give wise counsel to military commanders. Each Judge Advocate must become



Commander Frederick R. Bolton and Mrs. Bolton

an arsenal of information and assistance upon these areas of American foreign policy interest.

III. Areas of High Level Personal Responsibility of the Judge Advocate

Within every man, there is the desire to obtain perfection. On your shoulders rests the responsibility, far more than on most, to continue to strive for that degree of perfection which the affairs of our Government demand in times like these. I single you out for special demands because, for two specific reasons, you are a unique group.

A. The first is that by merely being Judge Advocates, you demonstrate that you belong to the very highest echelons of the legal profession. I can make that honest assessment based upon years of practice both in the civilian community and as General Counsel to the Secretary of Defense. During this period I have seen countless lawyers in action. I can unhesitatingly state that Service Judge Advocates rank at the top not only with respect to professional competence, but also as to integrity and dedication. Time and again while I was Secretary of the Army, I had occasion to seek counsel from The Judge Advocate General, with respect to problems of great legal complexity, problems which were of grave importance to the interests of the United States. On each occasion—(and based on conversations with the Secretaries of the Navy and the Air Force, I know

this was true for those Services as well)—the recommended solution which was presented to me would show the results of brilliant legal analysis and would represent an honorable course of action responsive to the needs of the situation, and in all aspects true to the basic principles upon which this great nation was founded and has prospered.

B. The second reason that I feel special demands are placed upon you is the clients whom you serve. In my opinion, it is only fitting that the finest group of lawyers in the world should be singled out to be legal advisers to the men who are the finest military leaders in the world—the commanders of the United States Armed Forces. I know these commanding officers. During the course of my world-wide inspections, I watched them perform under pressure, in Korea, in Berlin, in Vietnam, and in all the far-flung corners of the globe, in those isolated stations where the presence of our military forces is all that keeps the torch of freedom alight. No single group of men in the world bears a heavier burden of awesome responsibility than our nation's military commanders. You gentlemen work with these leaders on a daily basis. You know the missions which are assigned, the choices which confront them, and the decisions which have to be made. I am confident that you will always give these military commanders the very finest of your



Head table, 1963 Banquet—l. to r., Colonel John Ritchie, Mrs. Allen G. Miller,
Colonel Allen G. Miller

outstanding legal talent. They expect it, and they deserve it.

IV. Areas of Daily Concern to the Judge Advocate

The attorney-client relationship is one of the most fragile known to man. But when that relationship is placed against the background of the military needs of the United States, I feel that perhaps my periods of public service give to me a certain degree of special competence to assess just what the Judge Advocate should bring to that relationship.

Reduced to the simplest terms, I think that a Judge Advocate must give to the commander three things: (a) Legal advice which measures up to the highest standards known to the profession; (b) a total dedication, and (c) an absolute integrity. The stakes which are at issue in the global arena are simply too high, too total in terms of potential suffering and human disaster, to tolerate anything less than the very best.

Both your record of past achievements and your current day-to-day service constitutes a record with which any lawyer would be overjoyed were he to be given the opportunity to plead your case before any bar.

V. Areas of Recruiting and Retaining Judge Advocates for the Future

It is essential that the military services continue to attract and retain the very finest young talent which the legal profession has to offer, and in this area I foresee a

critical problem unless some sort of corrective action is instituted. The number of Judge Advocates on active duty is determined in relation to the overall strength of the Armed Forces. So far, in terms of both quality and in terms of raw numbers, the strength of the Judge Advocates has not fallen seriously, but it distresses me to learn that the *experience factor* within the legal services is showing a substantial decrease. I am more familiar with the problems of the Army, but this problem is not unique to that Service. It is one which must be of concern to you all. Young men, recent graduates from law schools, are performing short tours of active duty in order to fulfill their service obligations. While they are on such tours, they are performing in a manner which vindicates the rigid criteria under which they are selected and which reflect the tradition of the military legal services that only the best may serve. However, when their obligated tours are completed, these men are returning to civilian practice. Of course, by continuing their service connection in the Reserve, they are contributing to the strength of our nation, and their membership in this association demonstrates their continuing interest in the activities of Judge Advocates throughout the world. Nevertheless, as a result of their return to civilian practice, there is a growing void in the ranks of experienced Judge Advocates on active duty—men who have had years of experience not only in the



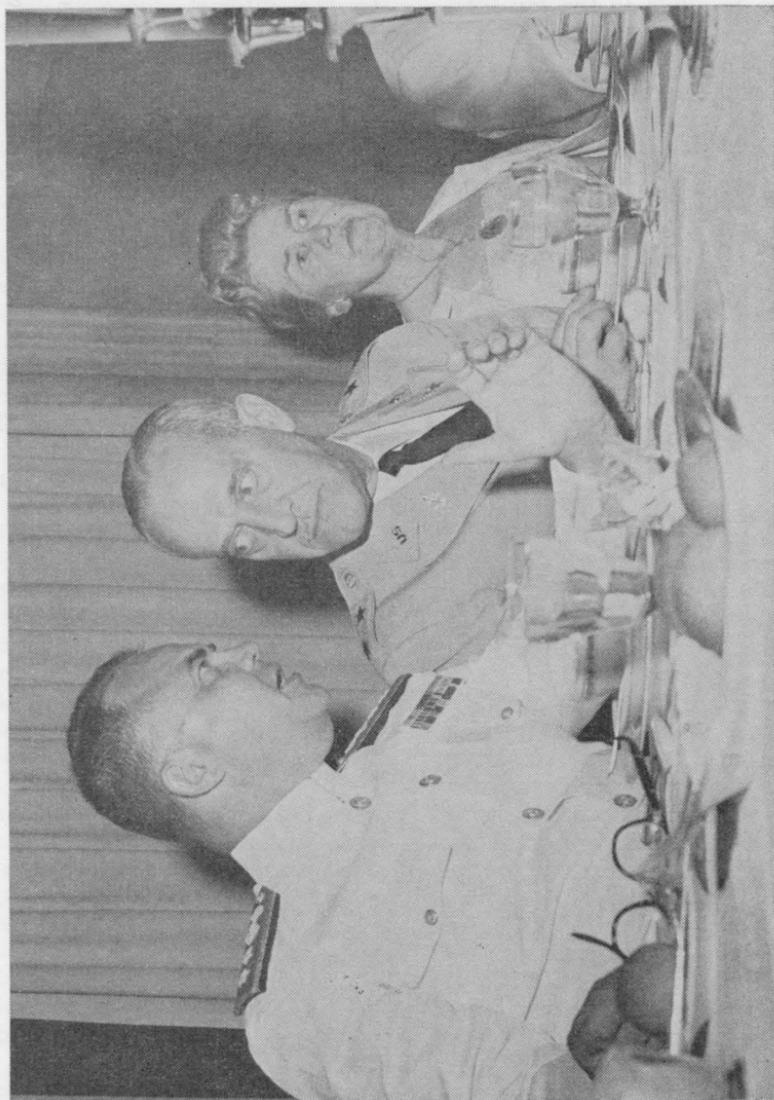
1. to r., Colonel John H. Finger, Mrs. Glenn E. Baird, and Colonel Glenn E. Baird

practice of law but also in recognizing and dealing with problems which are peculiar to the military.

I fully supported all of the attempts to secure proper compensation for the Armed Forces during my periods of service in the Department of Defense and the Department of the Army. But I do not think that monetary rewards alone will ever be sufficient to attract all of the fine legal talent which the services require. There has to be some undefinable inner quality for a man to dedicate himself to the military service of his country. There is, however, one source of potential career Judge Advocates who have demonstrated this inner quality, and this source has in recent years remained virtually untapped. A number of young men serving in the line—making the military service their career—have discovered a deep and abiding interest in the field of law. For the past several years Congress has included in each defense appropriation act a rider which prohibits the use of appropriated funds to send career officers to law schools to receive their initial professional degree. It seems to me a tragic waste of potential legal talent not to utilize a selected group of such line officers to rebuild the dwindling experience level of the legal services within our Armed Forces. These officers have already demonstrated that their prime desire is to have a military career. With such added equipment, these men could serve with distinction as Judge Advocates. In

the near future, I sincerely hope that this barrier will be removed.

In the interim, however, some progress is being made, and for this my deep-felt tribute goes to those responsible for the initiation of the Army's "Excess Leave" program. Under this program, young men who have demonstrated the desire to make the military service a career are authorized to attend law school in a status of excess leave without pay and, upon graduation and admission to the bar, to continue their military service as Judge Advocates. Under this program, at least a token effort is being made to tap the source of candidates to which I previously referred. In a way, however, this program seems a miserly way to reward a dedicated officer's interest in the law. With the Services desperately needing the experience factor which these young men can give, they are now forced to undergo great personal sacrifice. I can only hope that the American public will persuade the Congress to enact legislation which would authorize the Services to send carefully selected, career motivated line officers to law school at Government expense. In the meantime, these young men who are currently participating in the excess leave program are eminently deserving of the admiration and tribute of the American people. Their current willingness to make such a huge personal sacrifice is typical of the spirit which, throughout the years, has been displayed by Judge Advocates.



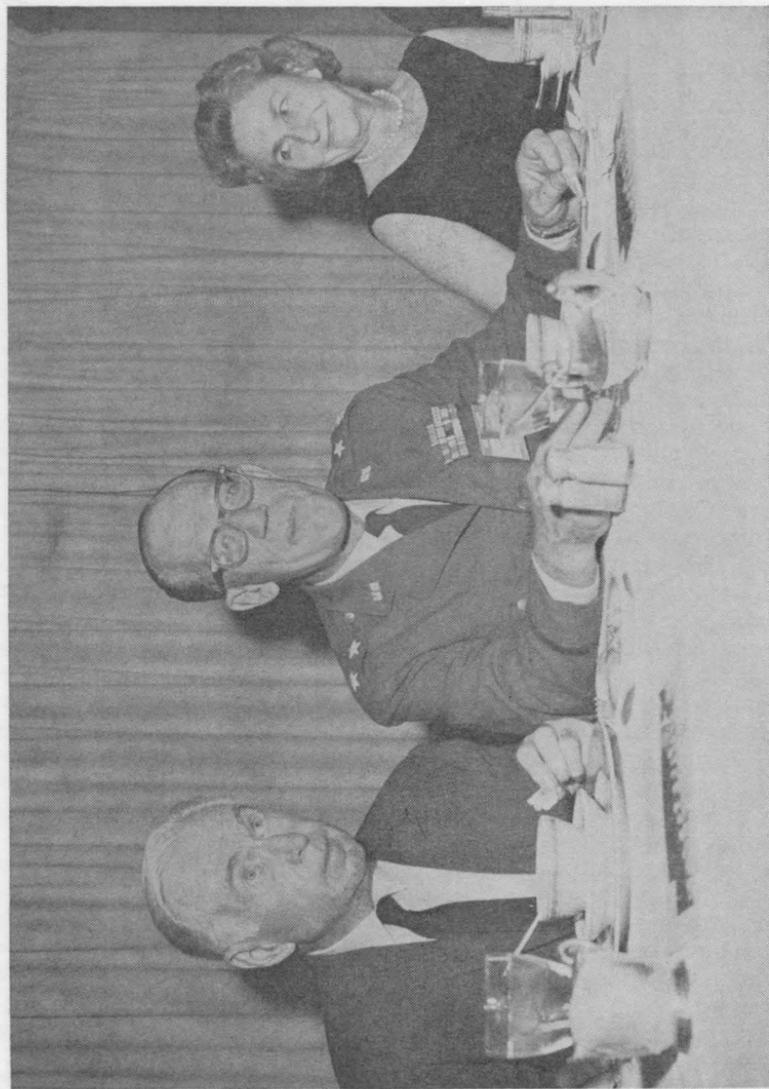
l. to r., Rear Admiral William C. Mott, Major General Charles L. Decker, and Mrs. Wilber M. Brucker.

This spirit of sacrifice is typical of the dedication with which Judge Advocates have approached, and must continue to approach, their tasks of contributing to the defense of our nation. This dedication is a dual one. It must extend to both the needs of the military services and to the needs of the legal profession. The Judge Advocate is truly a soldier-lawyer. It always shocks me when I hear someone imply that there is a conflict between the two. Both the profession of arms and the profession of law are dedicated to the preservation and to the strengthening of our nation, a nation dedicated to the rule of law. Rather than finding a conflict between the two, I am firmly convinced that no other two professions find such a common identity of ultimate goals and principles.

The dedication of the Judge Advocate must extend to both professions. With respect to the military side, he must seek continually to broaden his military experience. I am firmly convinced that only by an appreciation of the problems which confront a commander, preferably gained at first hand, can a Judge Advocate give to a commander the type of advice he requires. There is an old saying among lawyers which amounts to a truism. The more you know about a client's business, the better you can serve him. The time-worn nature of this statement in no way affects its current validity. I am sure that the only way that any staff officer can understand the

basic problems which confront a commander is to have had some command experience of his own. It matters little whether that experience was gained as a noncommissioned officer or as a company grade officer. The basic principles of leadership are the same. When a Judge Advocate is able to bring to his commander this invaluable personal experience, his service is bound to be extremely valuable. I can assure you that were it not for the time I spent as a Lieutenant of Infantry in the 42nd (Rainbow) Division in World I, undergoing the ordeal of shot and shell, I never would have appreciated fully the burdens which were borne with such distinction by our commanders in Korea, in Berlin and elsewhere. This factor of personal experience is one reason why the Army's Excess Leave program so impressed me. By drawing its participants from young officers who have actually served in the line, the Service is bound to receive from these men a mature appreciation of the commanders' problems far beyond that which might otherwise be expected from men of their age.

Your dedication, however, must also extend to the field of the law, as well. The surest mark of a continuing dedication to the law is to pursue a course of continuing legal education. The law is not a static field. It grows and develops with society, and in some areas it leads the march of progress. In the field of military science, it must also keep pace with the amazing



Head table, 1963 Banquet—l. to r., Judge Robert E. Quinn, General Albert M. Kuhfeld, and Mrs. John Ritchie

strides which have been made in recent years in the fields of weapons technology. As the law moves forward, so must the men who serve it. A man who fails to continue his professional development will soon fail to measure up to the high standards which the military-legal profession demands.

In this regard, the lawyer in the military is indeed fortunate. The military Services have recognized this need for continuing legal education, and officers are now authorized, at Government expense, to pursue studies in many advanced fields, such as international relations. But above and beyond that, you have the opportunity of attending one of the finest, specialized, graduate, legal institutions in the United States—THE JUDGE ADVOCATE GENERAL'S SCHOOL at Charlottesville, Virginia. During my period of service as General Counsel to the Secretary of Defense, I had the opportunity of assisting to establish this school, which now meets in a truly outstanding manner the challenge of providing for the in-service graduate training of lawyers of all the military Services in fields not available from civilian institutions. Illustrative of the standards of this institution is the fact that during its nine-month Career Course the work requirements exceed those of most institutions in programs which result in the award of doctoral degrees. While the graduates of this Career Course may take understandable pride, both in having been initially selected to attend and in

having successfully completed the stringent requirements, there is one factor which is disturbing to me.

Up until now, this institution has not been authorized to award advanced degrees. Such a shortcoming appears to require immediate remedial action, and I am pleased to note that legislation to this end will be introduced very shortly in Congress. I hope that it will be enacted speedily. Not only will this give to the graduates the material recognition which they so richly deserve, but, more important, it will contribute materially to the successful accomplishment of the nation's defense mission. In overseas areas, our Judge Advocates are required to deal on a daily basis with lawyers and judges of allied countries. The true stature of our Judge Advocates will be especially recognized by their "opposite numbers" in the foreign field when they are given an advanced degree in the field of the law. When our officers have completed the required work at The Judge Advocate General's School, our own self-interest makes it essential that they receive an advanced degree in order to be able to discharge their official responsibilities in the most effective manner.

This nation has always been devoted to the principle that international commitments are obligations which must be fulfilled. Unlike some nations, we do not solemnly enter into compacts which we have no intention of fulfilling.



l. to r., Commander Anthony J. Caliendo, Major General George W. Hickman,
and Major General Reginald C. Harmon

Our word is our bond, and this tradition on the part of the United States is illustrative of one of the greatest rewards attendant upon service in the uniform of our country's Armed Forces, for, when you are serving as Judge Advocates, the only requirement which is placed upon your legal advice is that it be the best which you are capable of delivering. There is never any demand that you twist or pervert the law. If you can give to the man on whose staff you serve your honest evaluation of the law, then you have discharged your duty, not only to your conscience and to the law, but also to your client.

In 1951, the Uniform Code of Military Justice became effective. Even its strongest advocates are willing to concede that it was, at the outset, a cumbersome system and one which represented in many ways a sharp break with military procedures of the past. The Service Judge Advocates did not, however, throw up their hands and say that this system would not work. They buckled down on a case-by-case basis, and made it work. They planned, and came up with innovations of their own which went even further than the mandate of Congress in insuring to the American serviceman the fairest and most advanced system of criminal justice in the world today. Nowhere else, other than in the armed services of the United States, are the rights of a person suspected or accused of an offense so zealously protected at each stage

of the proceedings, from initial investigation through the appellate review in the case of conviction. During the Korean conflict, on several occasions I had the onerous burden of going to the President of the United States and recommending that a sentence to death imposed by a court-martial be approved and carried into execution. Because the Service Judge Advocate had guarded well the individual rights of each respondent, I was able in each instance to assure the President that there was not the faintest hint of any irregularity which deprived the accused of any substantial right. This system of criminal justice is a living tribute to you gentlemen, as Judge Advocates, and to your adherence to the highest degree of integrity. Recently, in continuation of this tradition, the Army took an enormous step forward with the initiation of the Field Judiciary program, a step which was to be followed by the Navy. As a result of this program, and its recent expansion into the United States Army Judiciary, there has come into being a group of military jurists who, for professional competence, dedication and integrity, are second to none. This system now, in the Army, embraces the entire judicial process, from law officers presiding over courts-martial in the field through members of boards of review and including those officers who perform the duties of advocates at the appellate level. The creation and growth of this judicial body is but

one more monument to the efforts of Judge Advocates to insure for American servicemen—and through them, for the American people—the finest possible system of administering justice in furtherance of the proposition that this is truly a government of laws.

I want to pay a special tribute to those of you who are participating in the Reserve Program. The Judge Advocates who are on active duty have an immediate responsibility for the current operational program. But it is the Reservist who is to a great extent responsible for the image of the Judge Advocate, in particular, and the military, in general, which is to be held by the civilian community in which you practice law. You are frequently called upon to perform special services for which you are uniquely qualified. The cheerfulness with which you respond and the manner in which you discharge such duties reflect

great credit upon yourselves. This Association, consisting as it does of both Reservists and active duty personnel, has done much to promote the worthy goals of the military lawyer.

VI. Conclusion

The real challenge lies in the future. The problems are there; the opposition is considerable. But the prizes which lie at the end of the quest, if, in fact, there can ever be an end in the quest for the ultimate in a society ruled by law, are worthy of your best efforts. You have given your best efforts in the past. Let me urge that you redouble your efforts to match the times in which we live. So long as each of you continues to labor for all the things which our Armed Forces and the profession of the law share in common, you cannot help but contribute to the continuing greatness of our nation.



Report:

THE 1963 ANNUAL MEETING

The seventeenth Annual Meeting of the Association was held at the Conrad Hilton Hotel in Chicago on the 12th of August, 1963. About 150 members of the Association were present.

The President, Commander Frederick R. Bolton, USNR-Ret., of Detroit, presided. In his President's Report, Commander Bolton commended the work of the Association's committees, and especially praised the effectiveness of the Legislative Committee co-chaired by Cdr. Penrose L. Albright, Col. John Herberg and Col. Daniel Andersen, the Committee on the Status of the Lawyer in the Armed Forces chaired by Gen. E. M. Brannon, the Committee on Liaison with State Bar Associations chaired by Col. Osmer Fitts, and the Annual Meeting Committee chaired by Col. Glenn E. Baird. Commander Bolton stated that the Board of Directors had met in Washington in October, February and June, at the individual expense of the Board members and he commended them for their loyalty and interest. He recommended that future administrations make more effective use of the Executive Committee, that thought be given to the desirability of extending the term of office to two years, and that more expeditious organization

follow annual elections. He urged a continuing campaign for memberships pointing out that the Association cannot be truly representative of the military lawyer unless it represents a substantial number of them. He observed that many members are lost because of their failure to advise the Association of changes of address. He requested The Judge Advocates General to impress upon their personnel the necessity of advising the Association of their changes of address upon their changes of duty stations.

After the receipt of the usual formal reports on finances, membership, and publications, the President noted that during the past year, the following members of the Association had died: Capt. James S. Clifford of Philadelphia, Pennsylvania; Maj. John L. Culler of Arlington, Virginia; Col. John H. Daily of Indianapolis, Indiana; Col. Leon A. Grapes of Davenport, Iowa; Col. George Hay Kain, York, Pennsylvania; Col. Leon E. McCarthy of Ansonia, Connecticut; Major Edward W. Moses, Hollywood, California; Major Gus C. Ringole of San Francisco, California; Col. Charles E. Royer of Bethesda, Maryland and Col. Joseph A. Avery of Clearwater, Florida. The members of the Associa-

tion then in annual meeting assembled stood for a moment of silence in respectful and affectionate memory of these and all the other departed members.

The report of the Legislative Committee regretfully announced the failure of the Association's attempt to have added to the military pay bill provisions which would equalize the pay of Service lawyers with their line contemporaries by giving constructive credit for pay purposes for the time spent in obtaining legal education. The major part of the report related to the 18 bills filed in the Senate by Senator Sam J. Ervin, Jr., of North Carolina, for the announced purpose of protecting the Constitutional rights of servicemen. Mr. William Creech, a member of the staff of the Ervin subcommittee on Constitutional rights of military personnel, briefly described the bills in substance as follows: S. 2002 further prohibits command influence in court-martial cases and in certain *non-judicial proceedings*; S. 2003 would require qualified counsel in special courts in any proceeding which may result in a punitive discharge; S. 2004 increases the period within which an accused may petition for a new trial; S. 2005 would abolish the summary court-martial; S. 2006 would prevent the use of administrative proceedings for separation under other than honorable conditions as a circumvention of the protections afforded by court-martial; S. 2007 provides protection against double jeopardy by

administrative separations under other than honorable conditions following courts-martial for the same alleged misconduct; S. 2008 provides for pre-trial conferences between law officers and trial and defense counsel as a means of expediting trials; S. 2009 would increase the power of the law officer and make provisions for the law officer and for counsel in special court proceedings in which a punitive discharge may be given; S. 2010 would establish a procedure for appellate review by the CMA with respect to certain administrative actions taken by the Armed Forces; S. 2011 would require that in board proceedings held prior to an administrative separation under other than honorable conditions that there be a legal advisor to the board with the same qualifications required for a law officer under UCMJ; S. 2012 would give certain boards and officers conducting administrative proceedings the power of compulsory process for the appearance of witnesses and the production of evidence; S. 2013 seeks to give further independence to board of review members by relieving them from the effectiveness ratings of other members of the board; S. 2014 would give federal courts jurisdiction to try serious violations of UCMJ which are not otherwise subject to trial in any other tribunal; S. 2015 would make provision for the trial of persons committing serious offenses while accompanying the Armed Forces outside of the Unit-

ed States; S. 2016 would provide for the establishment of a Judge Advocate General's Corps in the Department of Navy; S. 2017 would provide for a review of proceedings before boards for the correction of military records; S. 2018 would give statutory recognition to the field judiciary system used in the Army and Navy and would extend the same to the Air Force; S. 2019 relates to the composition of boards of review—it would place the board of review under the direction of a chief judge who would be a civilian.

Chief Judge Robert E. Quinn of the United States Court of Military Appeals reported that in the 13 years of the operation of the Court, it had disposed of 17,000 cases. He reported that the dockets of the Court were current. He praised the work of the Ervin subcommittee on Constitutional rights of military personnel and gave special commendation to William Creech and Robinson O. Everett, members of the staff.

General Kenneth J. Hodson, The Assistant Judge Advocate General of the Army, reported for the Army. General Hodson mentioned the great increase in the legal work of the Army caused by the Government's attempt to desegregate the civilian community. He made particular reference to the work of the Army at Oxford, Mississippi, and the current developments in Birmingham and Tuscaloosa, Alabama. This activity assigned to the Army has created an entirely new type of military

problem and also one into which the other Services may very well be injected. He reported that the amended Article 15 has been well received in the field and that the commanders are properly exercising their new powers. The result of the amendment to Article 15 has been a reduction of summary court-martials by about 50%. He also announced that a new status of forces agreement had gone into effect with Germany as of July 1st. Accordingly, West Germany now has the authority to prosecute American soldiers for crimes committed by them in the civilian community. General Hodson observed that the German agreement follows the Netherlands formula and requires that the host state advise the guest state within 21 days of the offense whether it wishes to exercise jurisdiction. In practice, the Netherlands government has never tried an American soldier and the Japanese, under a similar formula, have waived jurisdiction in 90% of the cases in which they could have exercised jurisdiction.

General Hodson then stated that the Army still has a problem of retaining career legal personnel. Currently, applications for commissions exceed the vacancies, but most of these applications for commissions are by young men subject to the draft who seek to serve as First Lieutenants in The Judge Advocate General's Corps for an obligated tour of three years rather than serve as enlisted men. The great problem, however, is that these officers are separated after

the completion of their obligated tour and the Army cannot attract sufficient career officers to fill its needs in the regular service. Although the condition presently is not critical, in a few years the Service will lose all of its World War II lawyer-officers and that will certainly aggravate the problem. He announced that in an attempt to meet this situation the Army has granted excess leave to regular officers with more than two years service to enable them to go to law school, at their own expense. Currently, there are 57 officers in this program but many of them are ROTC students and in fact only 10 or 12 are regular Army officers with two years of service. The probabilities are that the regular officers will remain career military lawyers, whereas the ROTC students will probably only serve the obligated tour of three years.

General Hodson stated that the principal reason for the difficulty in retaining military career lawyers has been the continued and widespread efforts to downgrade the military lawyer professionally. He cited S. 2019 introduced by Senator Ervin which would require that boards of review have civilian members and that the chief judge of the boards of review be a civilian. This type of discrimination against military lawyers causes them to shy away from the career because there is a constant erosion of their professional standing. He urged that all civilians oppose S. 2019 as a necessary

measure to prevent loss of prestige of the military career lawyer.

Rear Admiral William C. Mott, The Judge Advocate General of the Navy, announced that this was his fourth and last appearance as The Judge Advocate General at these meetings of the Judge Advocates Association. He announced his intention to retire before the next annual meeting. Admiral Mott referred to the desegregation order mentioned by General Hodson. He stated that he read it to mean that commanders are to make available information to Servicemen and their dependents with regard to school assignment policies in the areas contiguous to their military installation. After making the information available, if the Serviceman or his dependent feels injured by the local policy, the commander then, through his legal assistance officer, is to advise the Serviceman or his dependent as to the appeal procedures from the local policy. If the Serviceman, or his dependent, is still not satisfied he may get advice from the legal assistance officer with regard to a private suit, but, of course, the legal assistance officer gives only advice and may only refer the Serviceman or his dependent to a list of local attorneys on the referral list. Admiral Mott believes that this is all that the desegregation orders issued by the Department of Defense require the military commander to do. In other words, the military commander is not required to compel desegregation, but merely to afford advice to military personnel

and their dependents, and refer them to civilian counsel.

Admiral Mott stated that the last year was a good one for the Navy. He expressed pride in the Cuban quarantine as the outstanding legal event. In this, the Navy coined the term "quarantine" and with its capability in the international law field matched the Navy's military and naval might as a measure, short of war, to stop Khrushchev. In the field of international law, the Navy has sent judge advocates to newly established bases in Australia and presently has a man on the joint staff committee to study the new test ban treaty, to offer advice on it and other matters of disarmament.

The Navy has had civilian members on its boards of review for years and Admiral Mott commended these members as fine lawyers and excellent gentlemen; but he stated that he would prefer to have his boards of review entirely manned by Naval officers. He expressed his opposition to the civilianization of boards of review because it tends to degrade the military lawyer and makes it difficult to establish professional prestige. He denounced S. 2019 as a further frustration to career legal officers. Admiral Mott expressed concern over the problem of retention of trained personnel in his Department. In his opinion, the only way to encourage military legal careers is to create incentives. He expressed regret concerning the enactment of the annual rider to the appropriations bill which pre-

vents the training of career personnel in the law. He noted that the ABA has supported this rider in the past; and, he stated that he hoped ABA would reverse its position on this. Admiral Mott said that the Navy was pleased with the operation of the judiciary program adopted from the Army. He also stated that the amendment to Article 15 had reduced considerably the inferior court load.

General Albert M. Kuhfeld, The Judge Advocate General of the Air Force, stated that the integration and desegregation business is taking considerable time of his personnel. The Services have been directed to establish means of implementing the Department of Defense policies designed to insure similar treatment of all persons on or off base. In this difficult field, General Kuhfeld expressed the feeling that the military establishments will proceed with slow deliberateness. He announced that it is definitely established that no military base will be closed because of the segregation policies of the local community, and that no private business will be declared off limits because of local segregation policies except upon the approval of the Department Secretary.

General Kuhfeld commended the work of William Creech and Robinson O. Everett as staff members of the Ervin committee. He joined Admiral Mott and General Hodson in their opposition to S. 2019 which would civilianize boards of review. He announced that as a

result of the amendment of Article 15, commanding officers are using their new powers well and have reduced the number of courts-martial and increased the state of discipline. He prophesied that the summary courts may become obsolete and may be abolished in the near future.

General Kuhfeld stated that he felt that military lawyers and their prestige greatly need the enactment of legislation which will demonstrate that the Congress as representative of the people appreciates the work of the lawyer in uniform. For this reason, he expressed considerable regret that the longevity credit amendment to the military pay bill had failed. The Judge Advocates Association and the American Bar Association must continue to work toward enhancing the prestige of the military lawyer and unless they do and with some success, there is going to be growing difficulty in obtaining career officers to serve as Judge Advocates.

General Kuhfeld stated that there has been some improvement in the personnel situation in the Air Force Legal Department, but even yet the Air Force JAG's Department is made up of 584 regular officers, 286 career reservists and 430 officers serving obligated tours. More regular officers are needed to avoid the uncertainty as to the length of service of the reservist.

General Kuhfeld stated that the reserve training program is working well. Reserve officers are an

integral part of the JAG office inasmuch as they do on-the-job training and render valuable assistance to JAG's on active duty. One of the principal fields in which they assist active duty personnel is in the rendering of legal assistance to retired and dependent personnel.

At the conclusion of the meeting the report of the Board of Tellers of the election was read, and the following were announced to have been elected to the offices indicated:

President: Col. Allen G. Miller, USAFR, 75 Highland Ave., Hillsdale, New Jersey

First Vice President: Col. John H. Finger, USAR, 702 Central Tower, San Francisco, California

Second Vice President: Cdr. Penrose L. Albright, USNR, 1111 E Street, N. W., Washington, D. C.

Secretary: Capt. Zeigel W. Neff, USNR, 9706 Singleton Drive, Bethesda 14, Maryland

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

Delegate, ABA: Col. John Ritchie, III, USAR, 357 Chicago Avenue, Chicago 11, Illinois

Board of Directors:

Col. Daniel J. Andersen, USAFR, 639 Woodward Building, Washington 5, D. C.

Col. Glenn E. Baird, USAR, 209 S. LaSalle Street, Chicago, Illinois

- Col. Franklin H. Berry, USAR-
Ret., 26 Main Street, Toms
River, New Jersey
- Capt. Robert G. Burke, USNR,
Room 2820, 420 Lexington
Avenue, New York 17, New
York
- Maj. Gen. Charles L. Decker,
USA, The Judge Advocate
General, Department of the
Army, Washington 25, D. C.
- Brig. Gen. Sheldon D. Elliott,
USAR, 40 Washington Square
South, New York 12, New
York
- Lt. Col. Osmer C. Fitts, AUS-
Ret., 16 High Street, Brattle-
boro, Vermont
- Col. Morton J. Gold, USAF,
1422 So. Maple Street, Fair-
born, Ohio
- Capt. Mack K. Greenberg, USN,
4707 Connecticut Avenue,
N. W., Washington, D. C.
- Brig. Gen. Kenneth J. Hodson,
USA, 6519 Lone Oak Drive,
Bethesda 14, Maryland
- Brig. Gen. Herbert M. Kidner,
USAF, 3 Fort Hunt Road,
Alexandria, Virginia
- Brig. Gen. Thomas H. King,
USAFR, 912 17th Street,
N. W., Washington 6, D. C.
- Maj. Gen. Albert M. Kuhfeld,
USAF, The Judge Advocate
General, Dept. of the Air
Force, The Pentagon, Wash-
ington 25, D. C.
- Brig. Gen. Robert W. Manss,
USAF, 1687 N. Longfellow
Street, Arlington 5, Virginia
- Col. Martin Menter, USAF, Of-
fice of the General Counsel,
Federal Aviation Agency, 1711
New York Avenue, N. W.,
Washington 25, D. C.
- Col. Frank E. Moss, USAFR,
617 Kearns Building, Salt
Lake City, Utah
- Rear Admiral William C. Mott,
The Judge Advocate General,
Department of the Navy,
Washington 25, D. C.
- Col. Joseph F. O'Connell, USAR,
31 Milk Street, Boston, Mas-
sachusetts
- Col. Alexander Pirnie, USAR,
313 Mayro Building, Utica,
New York
- Col. Ralph W. Yarborough,
USAR, 2527 Jarratt Avenue,
Austin, Texas

Members of the Association at-
tending the annual meeting and
their ladies reconvened at 7:00
p.m. in the College Hall of the
University Club of Chicago for
reception and cocktails. Following
the social hour, the group then
went to the beautiful Cathedral
Hall of the University Club for
the banquet. 175 of the members
and their guests were present. The
group was entertained by an or-
chestra of the Fifth Army and by
a program of choral music ren-
dered by The Blue Jacket Choir of
the United States Naval Training
Center of Great Lakes. Command-
er Bolton, the retiring president
of the Association, presided at the
head table and introduced the

Honorable Wilber M. Bruckner, a practicing attorney of the city of Detroit, and formerly the Secretary of the Army, as the guest speaker. Mr. Bruckner's address is set forth in full in this issue of the Journal.

In summary, the 1963 annual meeting of the Association was a memorable event, and Colonel Glenn E. Baird, chairman of the committee on arrangements, is entitled to the highest praise and credit.



In Memoriam

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

Joseph A. Avery of Clearwater, Florida
George Hay Kain, Jr., of York, Pennsylvania
Edward W. Moses of N. Hollywood, California
Leo J. O'Brien, San Francisco, California
Henry G. Totzke of Detroit, Michigan

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

FORMULATION OF SPACE LAW

By Colonel Martin Menter*

The great powers of the earth may now conclude that an armed world conflict could devastate the earth. They strive for a formula to effect in our time, and for all time, the hope of man through the centuries—for peace on earth and good will among men. It is the common hope of peoples of all nations that their leaders will find the way to assure that they may live their allotted days in good health and in the pursuit of happiness, in peace.

If we hope to achieve the rule of law on earth, we must assure its extension to man's new environment in outer space. The law governing space activities cannot be established independently of principles of law developed to govern man's activities on earth. This does not mean that all laws on earth automatically apply to space, but that in determining the law that should apply to space activities—we must reexamine analogous related laws, such as the Law of the Sea and of Air Law, among others, to determine whether the underlying rationale of such law

may also be applicable to the new environment of outer space.

As space activities of man have their genesis from man's activities on earth, it is obvious that much law on earth today is presently applicable to our space activities, or may be readily adaptable to such activities. What is the law to apply is generally not a matter initially for judicial determination, but rather for resolution by bodies politic.

The world's technology has so advanced since World War II, and man's space effort is currently so intense, and successful—that we can each visualize areas that presently or in the near future should be governed by law not yet determined upon. These—now frequently occurring—outstanding space accomplishments have lead many periodicals and individuals of repute to decry a present need of formulating a code of space laws. They urge present agreement of governing rules.

Is such a code of laws presently feasible? Certainly, all of us advocate that law shall be applica-

*Colonel Menter is a Judge Advocate, USAF, presently assigned as Acting Associate General Counsel of the Federal Aviation Agency in Washington. This article is based upon the address given by Colonel Menter at the VIth Colloquium on the Law of Outer Space of the International Institute of Space Law, International Astronautical Federation, in Paris, France, on September 27, 1963. The author's remarks are his personal views, and unless expressly so stated, shall not be construed as representing the views of any agency of the United States Government.

ble to space activities. However, we must remember that we are here dealing not only with the problems of what the law should be but also of international agreement on such laws. By their very nature, such laws are consensual. We have experienced the arduous route of formulating international agreements, of the many committee meetings, conferences, redrafting of provisions, compromises, delays, national ratifications, reservations upon depositing of ratifications from particular provisions, and so forth. We believed the body of the Law of the Sea could generally be agreed upon; yet the 1958 U.N. Convention on the Territorial Sea and the Contiguous Zone, still awaiting deposit of sufficient instruments of ratification to bring it into effect, reveals that we have been unable to agree upon whether a State's territorial sea was Bynkershoek's popular cannon-shot rule of 1 sea league or 3 nautical miles, 6 miles, or 12 miles in breadth. Is it not impractical to expect that the several sovereign states can readily enter into an extensive international agreement to govern space activities man has not yet experienced?

It is not to be inferred that we should lessen our efforts to determine what the law should be under particular situations, actual or hypothetical. To this end, we should welcome opportunities to discuss basic and implementing principles. We should endeavor to have conferences in which our scientists, our staff planners and our attor-

neys address themselves to the same problem. In this way, we each may see and take into consideration the needs of the other. We will more quickly develop sufficient knowledge of the facts involved to fashion round pegs for round holes in the law. As the old Roman maxim stated: "*Ex facto oritur jus*" or "the law rises out of the facts." Let us welcome discussions in our several States as to what the law should be and let us bring to the conference table suggested solutions to particular problems presently warranting resolution. The Chief Justice of the United States Mr. Earl Warren in an address earlier this year to the Georgia Institute of Technology stated: "We know that there must be a law of space if men are to fly to the moon and the planets." While Mr. Warren felt such activities "foreshadow tremendous problems," he believed that "they lend themselves to laboratory technique as clearly as do the splitting of the atom, the refraction of light and heat, the desalting of water, and all the other problems that are the daily preoccupation of [technological] institutions." Further, he stated ". . . it seems clear that without advancing law to meet the challenges of science, science could do immense harm as well as immense good." ("Science and the Rule of Law," reprinted in *Air Force and Space Digest*, May, 1963)

As you know, international law does not rest solely upon international agreements. Paragraph 1 of

Article 38 of the Statute on International Court of Justice recognizes other sources of international law to be:

“ * * *

- b. international custom, as evidence of a general practise accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. . . . judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.”

Thus, we may expect to see our accepted activities in space, our recognition of guiding principles, and some of our writings looked to by the International Court of Justice in resolving disputes submitted to it concerning space activities.

In determining what should be the law applicable to our activities in space, we might first consider how law in the past has been formulated. Normally, law on a given subject reflects man's sense of what is just and proper as conditioned by his needs and environment. Law is part of the evolutionary development of man and society. We know the earth to be billions of years old. While what we know as man has perhaps existed on earth for upwards of a million and a half years, it has been only in the last 8,000 years since the Fourth Ice Age, that he

began to settle alongside of rivers and harbors into geographic, and later political communities. Society progressed from tribes and clans into cities and nations. Under early law, a tribesman respected tribal boundaries under threat of a retaliatory arrow for crossing into another's domain. Unwritten rules evolved premised on expected behavior of a rational being and became known as the natural law. This was reflected in tribal customs, the folkways and mores of a people or community and the law of a nation. Our jury test of the mythical “reasonable man” is but an outgrowth of natural law. It is present in asserted and agreed rules applicable to international behavior. Queen Elizabeth of the 16th century in rejecting the Spanish protest of Sir Francis Drake's voyage around the world without having obtained Spain's prior consent to sail the high seas established the concept of freedom of the high seas which has since matured into one of our most firmly established rules of international law.

The late Judge John J. Parker, in discussing his concept of law in an article entitled “The Role of Law in a Free Society,” republished in the American Bar Association's 1956 anthology, *The Lawyer's Treasury*, stated:

“. . . There is something . . . in the nature of human beings and of society that they compose that determines how society should act and how

the members of society should act toward one another. This is law in its true sense. It must be interpreted in terms of Rules and these rules must be enforced by the power of the state”

The application of natural law to international law was excellently expressed in 1814 in an opinion of Judge Van Ness of the Federal Circuit Court for the District of New York, viz:

“. . . The law of nations, without defining or developing its divisions more minutely, may be stated to be the law of nature, rendered applicable to political societies, and modified in progress of time, by the tacit or express consent, by the long established usages and written compacts of nations; usages and compacts become so general that every civilized people ought to recognize and adopt their principles” (*Johnson et al. v. 21 Bales, etc.*, Jan 1814, Case No. 7, 417, 13 Fed. Case, p. 857.)

In 1604, Hugo Grotius, generally accepted as the father of international law, discussed the English-Spanish contention in his *Commentary on the Law of Prize and Booty*. He made reference to the concept of natural law as the basis for the law of nations, or international law. He set forth the view that the sea and the air, be-

ing common to all, could not belong to any one nation. He stated:

“. . . all those things which have been so constituted by nature that, even when used by a specific individual, they nevertheless suffice for general use by other persons without discrimination, retain today and should retain for all time that status which characterized them when first they sprang from nature . . . Air falls into this class: first, because it is not possible for air to be made subject to occupancy; secondly, because all men have a common right to the use of air. For the same reasons the sea is an element common to all, since it is so vast that no one could possibly take possession of it, and since it is fitted for use by all”

Grotius in a later work of 1625, in *Of the Law of War and Peace*, modified his concept of total freedom of the seas by recognizing that a coastal state had jurisdiction over the waters a short distance from its shoreline as dominion could in fact be obtained over such adjacent region of the sea. As you of course know, the adjacent sea subject to a coastal state's jurisdiction has become known as the “territorial sea.”

The characterization by Grotius of air as free to all was no longer an academic matter when German balloons drifted into French territory the latter part of the 19th

century, or when in 1900 von Zeppelin demonstrated controlled balloon flying, or in 1903 when the Wright Brothers introduced piloted aircraft, or when in 1909 Louis Bleriot piloted a plane from France to England, or of course during World War I, when enemy planes flew over another's country. The concept of freedom in the airspace was firmly rejected during World War I when nations declared their sovereignty to exist in the "airspace" above them. This claim of sovereignty of and rejection of freedom in a nation's superjacent airspace was next confirmed in international agreements. This development of Air Law modified the initial concept of freedom of the airspace to accord with man's needs and environment. So too the development of space law will evolve as law in the past has evolved, whether by customary international law or by agreement, reflecting man's sense of what is just and proper as conditioned by his needs and environment.

The first giant steps toward resolution of space law problems was of course the UN Resolution 1721 of December 20, 1961. This resolution being unanimously adopted represented a formal consensus of the world family of nations as to appropriate governing general principles. The resolution expressly recited that it:

"Commends to States for their guidance in the exploration and use of outer space the following principles:

(a) International law, including the United Nations Charter, applies to outer space and celestial bodies;

(b) Outer space and celestial bodies are free for exploration and use by all States in conformity with international law, and are not subject to national appropriation;"

These words which appear only of general significance, in reflection, are of importance in setting the foundations for the law of outer space. It reflects a unanimous consensus of the world family of nations that outer space, unlike airspace, is not within the sovereign jurisdiction of the subjacent State. Further, that each State can use outer space in conformity to international law, which is expressly recognized as applicable to outer space. It is believed apparent that outer space is to be recognized as similar to the high seas, both are not subject to national appropriation and free for use by all nations. These UN enunciated principles are in affirmance of the position of space law writers as to the law governing such space activity, as reflected in the American Bar Foundation July 1961 "Report to the National Aeronautics and Space Administration on the Law of Outer Space." The reporters of this project to reflect the consensus of existing space law writings were Professor Leon Lipson of Yale Law School and Nicholas De B. Katzenbach, now the Deputy At-

torney General of the United States. Under the heading "The Problem of 'Peaceful Purposes: Military Uses,'" at page 25, it is stated:

" In the sense of the [U.N.] Charter and in international law generally, [the word 'peaceful'] is employed in contradiction to 'aggressive' Thus any use of space which did not itself constitute an attack upon, or threat against, the territorial integrity and independence of another state would be permissible; the high seas, for example, can be used for the maintenance of a naval force-in-being without any violation of international law, and may be employed 'peacefully' for manoeuvres and testing of weapons"

The UN Resolution recital as to celestial land bodies not being subject to national appropriation is of course not intended to preclude establishment by exploring States of settlements upon such land masses. Such exploration and settlement will present many legal questions for resolution. Necessary further steps should now be taken as to possible agreement as to: utilization of land masses; defining rights to accession of resources therein (to land and minerals); benefits and obligations of settlements, such as for mutual emergency support of settlements of all nations; resolution of disputes;

governing civil and criminal laws and government administration.

The General Counsel of the International Astronautical Federation, Mr. Andrew Haley, has authored a new book, *Space Law and Government*, which is momentarily expected to be released by its publishers, Appelton-Century-Crofts, Inc., New York. Chapter 5 of Mr. Haley's book is concerned with "Sovereignty over Celestial Bodies." In speaking of travel to and settlement on celestial bodies, Mr. Haley states:

" . . . gradually and inexorably, traffic will increase, new propulsive systems will be found which will reduce the cost of construction and operation; emigration will commence; meteorite mining will become an industrial objective; and all the ancient problems of law will be reasserted under vastly more complicated circumstances. Again there will arise—in a new frame of reference—problems of neutrality and belligerency, of nationality, domicile, statelessness, internment, asylum, sequestration, blockade, hovering, extra-territoriality, embargo, reprisal, boycotts, expropriation, piracy, contraband, customs, prize proceedings, emigration, immigration, mandates, colonies, tortious violations, civil claims, venue, jurisdiction, and so on."

There are many legal problems for which agreement on governing

law should now be undertaken. This is clearly recognized by the U.N. General Assembly Resolution 1802 [XVII] of December 19, 1962, which expressly:

"Calls upon all Member States to co-operate in the further development of law for outer space; [and]

"Requests the Committee on the Peaceful Uses of Outer Space to continue urgently its work on the further elaboration of basic legal principles governing the activities of States in the exploration and use of outer space and on liability for space vehicle accidents and on assistance to and return of astronauts and space vehicles and on other legal problems."

The deliberations of the Legal Subcommittee of the UN Committee on the Peaceful Uses of Outer Space since such resolution, from April 16 through May 3, at New York City, while not producing further agreement on governing space law, reveal that there exists a general consensus among States for present resolution of many legal problems related to outer space activities. This is reflected in the assessment of such meetings by the United States Representative, Mr. Leonard C. Meeker, the Deputy Legal Adviser to the U.S. Department of State, at the last meeting of the Subcommittee on May 3, 1963, as follows:

"When the second session of this Subcommittee began in mid-April, the membership of the United Nations looked to us to make and record substantial gains in the building of law for outer space. The discussions we have engaged in have been valuable, and have carried us forward from the point where the Legal Subcommittee left off last year.

"Our discussions have gone farther into the substance of many questions than we had gone at any time previously. Clarifications have been obtained on some issues. In a number of cases virtual agreement has been reached. In others, differences have been narrowed. With respect to a relatively small number of questions, we all recognize that wide divergences remain.

"Let us look for a moment at the picture following our 1962 session in comparison with the situation at the close of the 1963 session. One year ago a consensus existed that we should have an agreement on liability for space vehicle accidents. There was also agreement that the international community should express itself in some appropriate form on the matter of assistance to astronauts in distress and the return of space vehicles, or parts, and the personnel of space vehicles.

"Today the consensus extends over a considerably larger area. For example, members of the Subcommittee quite generally agree on the appropriateness of a formal international instrument covering the subject of assistance and return. They also agree on the desirability of a declaration setting forth basic principles of law to guide States in their exploration and use of outer space. Even the contents of such a declaration are largely agreed.

"To be specific, there is a consensus on the freedom of outer space for exploration and use by all States, on a basis of equality and in accordance with international law; on the unavailability of celestial bodies for national appropriation; on the applicability of international law, including the Charter of the United Nations, to relations among States in outer space; on retention by the launching authority of jurisdiction over and ownership of space vehicles; on assistance to astronauts in distress and return of space vehicles and their personnel; on liability for injury or damage caused by space vehicle accidents.

"With respect to certain other questions of principle, our debates in the last three weeks have clarified points of view and narrowed differences.

For example, a number of delegations, including the United States, have endorsed the idea of appropriate international consultation to study the problems of interference and contamination in outer space and to provide for discussion in relation to particular proposed projects. We have welcomed the establishment of a Consultative Group by the Committee on Space Research of the International Council of Scientific Unions. We think the working of this group, which held its most recent meeting in March, 1963, represents a sound approach.

"Another area in which the debate of the second session has carried us forward is the question of what entities may engage in outer space activities. Here it may be observed that no one could expect the international community to impose the tenets of a single economic and social system on outer space and restrict activities in space to governments alone. At the same time our debates have disclosed a widely shared recognition that governments bear responsibility and are accountable for national activities in space. . . ."

While it may initially appear that the United Nations is moving slowly in formulation of space law concepts, we should be thankful that States are in conference thereon. Foundations for future

progress are being made. A general consensus is appearing in clearly identifiable areas. While we should continue to constantly strive for further development of principles for space law, we meanwhile should not delay space activities for peaceful purposes. Zepelin and Bleriot did not defer their flights until the unprecedented legal problems introduced with the airplane were resolved. Their flights presented the ponderous problems of sovereignty within the airspace. Thus far in the space age we have only the same earthman and countries involved as have been involved in the air age with the development and use of the airplane. Resolution of the new legal problems ushered in with the space age similarly rests on the willingness of the same earthmen to resolve them. While we cannot obtain a Code at this time covering all space activities, we can address ourselves to agreement on individual pressing space law problems, ripe for resolution. In this regard, it is interesting to note Mr. Khrushchev's letter of March 20, 1962, to President Kennedy, which included the recital "I think, Mr. President, that the time has come for our two countries, which have advanced more than the others in space exploration, to try to find a common approach to the settlement of important legal problems that life itself sets before States in the age of space" Also noteworthy are the remarks of President Kennedy in his address on September

25, 1961, to the United Nations that:

"As we extend the rule of law on earth, so must we also extend it to man's new domain: outer space."

In the evolution of life on earth, sentient man has emerged as the ruler of all he surveys. In his relations with his fellow man, he is not governed by the laws of the jungle but by the concepts of natural law. In the further evolution of man and society into the environment of space, man is now given an opportunity to develop a basis for peacefully resolving national differences and for engaging in common undertakings for the mutual benefit of all participants. Instead of a "Live and Let Live" philosophy, we should adopt a "Live and Help Live" philosophy. Remember "His own light shines no less when he hath lit another's lamp therefrom." The difficulties of survival in space exploration and travel, and the costs thereof to all participants can be reduced if we are determined that our settlements on celestial bodies and our activities in space will be mutually supporting. By mutual cooperation, results will be achieved which no one nation can achieve alone. By seeking meaningful solutions through the United Nations, we strengthen that organization and necessarily the likelihood of maintenance of world peace. The opportunities given us are broader than for technical ad-

vancements. By providing for mutually supporting activities and a method of peacefully resolving disputes—such as by reference to the International Court of Justice—we

strengthen the influence and authority of the Court and of the Rule of Law. We thus are a step nearer to the day when we may beat our swords into plowshares.



PROFESSIONAL ANNOUNCEMENTS

John Gibson Semmes announces the formation of a partnership with David H. Semmes and the association of James C. Wray to continue the practice of patent and trademark law under the firm name of Semmes & Semmes at 1000 Connecticut Avenue, N.W., Washington 6, D. C.

John A. Kendrick, announces the dissolution of the firm of Burton, Heffelfinger, McCarthy & Kendrick, and the removal of his office for the general practice of law to the Kendrick Building, 233 Massachusetts Avenue, N. E., Washington 2, D. C.

COMMITTEE APPOINTMENTS:

Colonel Allen G. Miller, President of the Association, has made the following Committee assignments for the year 1963-64:

Legislative Committee: Cdr. Penrose Lucas Albright, USNR, Chairman. Members: Col. Daniel J. Andersen, USAFR; Col. John Herberg, USAF-Ret.; Capt. Zeigel W. Neff, USNR; Brig. Gen. Thomas H. King, USAFR; and Maj. Gen. E. M. Brannon, USA-Ret.

Committee on the Status of the Lawyer in the Armed Services: Maj. Gen. E. M. Brannon, USA-Ret., Chairman.

Military Justice Committee: Capt. Robert G. Burke, USNR; Chairman. Members: Col. Arnold LeBell, USAF; Col. Gilbert C. Ackroyd, USA; and Capt. Mack K. Greenberg, USN.

Committee on the Academic Evaluation of the Law Degree: Brig. Gen. Herbert M. Kidner, USAF-Ret., Chairman. Members: Col. John Ritchie, III, USAF; Brig. Gen.

Shelden D. Elliott, USAF; Col. Mason Ladd, USAF; Col. Charles P. Light, USAF; Col. William F. Fratcher, USAF; Col. William H. Agnor, USAFR.

Committee on Liaison with the American Bar Association: Col. John Ritchie, III, USAF, Chairman.

Committee on Liaison with State Bar Association: Lt. Col. Osmer C. Fitts, AUS-Ret., Chairman.

Membership Committee: Capt. Zeigel W. Neff, USAF, Chairman.

Public Relations Committee: Col. Clifford A. Sheldon, USAF-Ret., Chairman.

Program and Development Committee: Brig. Gen. Herbert M. Kidner, USAF-Ret., Chairman.

Committee to Investigate Employment and Placement Opportunities for Judge Advocates Leaving the Active Service: Col. Joseph F. O'Connell, Jr., USAF.



PRESIDENT APPOINTS STATE CHAIRMEN FOR 1963-64

At the October meeting of the Board of Directors of the Association, the following appointments as State Chairmen for the year 1963-64 were announced:

Alabama	Alfred M. Goldthwaite	Montgomery
Alaska	John S. Hellenthal	Anchorage
Arizona	John Paul Clark	Winston
Arkansas	John A. Fogleman	Marion
California	John H. Finger	San Francisco
	J. J. Brandlin	Los Angeles
Colorado	Milton J. Blake	Denver
Connecticut	Harvey A. Katz	Glastonbury
Delaware	James L. Latchum	Wilmington
District of Columbia	Michael Leo Looney	Washington
Florida	Delbridge L. Gibbs	Jacksonville
Georgia	Hugh H. Howell	Atlanta
Hawaii	Arthur H. Spitzer	Honolulu
Idaho	Raymond T. Greene	Sandpoint
Illinois	Glenn E. Baird	Chicago
	William G. Vogt	Carrollton
Indiana	Erle A. Kightlinger	Indianapolis
Iowa	James L. Bennett	Des Moines
Kansas	Donald I. Mitchell	Wichita
Kentucky	Walter B. Smith	Louisville
Louisiana	Richard C. Cadwallader	Baton Rouge
Maine	Kenneth Baird	Portland
Maryland	Robert H. Williams	Baltimore
Massachusetts	Joseph F. O'Connell, Jr.	Boston
Michigan	Richard E. Hinks	Detroit
Minnesota	John H. Derrick	Minneapolis
Mississippi	Richard A. Billups, Jr.	Jackson
Missouri	John H. Hendren, Jr.	Jefferson City
	Walter W. Dalton	St. Louis
	Charles Frank Brockus	Kansas City
Montana	Robert D. Corette	Butte
Nebraska	Lewis D. Ricketts	Lincoln
Nevada	Clel E. Georgetta	Reno
New Hampshire	Ralph E. Langdell	Manchester

New Jersey	Franklin H. Berry	Toms River
New Mexico	Sam Dazzo	Albuquerque
New York	Sherwood M. Snyder	Rochester
	Robert H. Kilroe	New York City
	Robert G. Burke	New York City
	Charles I. Katz	New York City
North Carolina	Louis D. Poisson	Wilmington
North Dakota	Everett E. Palmer	Williston
Ohio	James Arthur Gleason	Cleveland
	Edward L. Douglass, Jr.	Cincinnati
Oklahoma	Harold J. Sullivan	Oklahoma City
	Albert G. Kulp	Tulsa
Oregon	Adelbert G. Closterman	Portland
Pennsylvania	Park B. Dilks, Jr.	Philadelphia
	Samuel A. Schreckengaust	Harrisburg
	John W. Cost	Pittsburgh
Rhode Island	Edwin B. Tetlow	Providence
South Carolina	William S. Hope	Charleston
South Dakota	Leo A. Temmey	Huron
Tennessee	Arthur Crownover	Nashville
	Robert S. Young, Jr.	Knoxville
Texas	Gabriel Hawkins Golden	Dallas
	Boyd Laughlin	Midland
Utah	H. Byron Mock	Salt Lake City
Vermont	Charles F. Ryan	Rutland
Washington	Richard O. Thorgrimson	Seattle
West Virginia	Abraham Pinsky	Wellsburg
Wisconsin	Sverre Roang	Edgerton
Wyoming	George F. Guy	Cheyenne



CEREBRATIONS OF THE BOARD—OCTOBER 1963

The officers and directors of the Association met in Washington on 26 October 1963. Among the items considered on the agenda of the meeting were these very important matters affecting the military lawyer:

The Department of Defense "Project 60" which would, by administrative action, place all contract management of the Army, Navy, Air Force and NASA in a new DOD agency with thirteen district offices: This plan portends serious consequences to the career lawyer in uniform inasmuch as it holds the real prospect that it will be civilian directed *and manned*. The new agency will take over an inventory of approximately 70 billion dollars in contracts and will have an annual contracting business of 20 to 30 billions of dollars. The loss of this professional function by the uniformed lawyer would be a disastrous blow to the already eroded professional prestige of JAG's and a further complication to the personnel retention problem. Although the announced purpose of the plan, to consolidate contract management and avoid duplication, is creditable; it is of paramount importance to the uniformed lawyer that Army and Air Force judge advocates and Navy legal specialists fill the top echelons. This matter was referred to the Association's Committee on the Status of the Lawyer in the Armed

Services for investigation, report and action.

The equalization of the pay of judge advocates and legal specialists with their contemporaries in the line through the provision of longevity credit for the time spent in the acquisition of a legal education was considered by the Board as the best legislative prospect for pay betterment of lawyers in the service in the immediate future. In the present session of the Congress, the Association took a strong position toward this position in the hearings on the Military Pay Bill, but the effort failed because the House Committee felt that such longevity credit was not properly a part of pay legislation but a personnel matter. The Board directed the Legislative Committee to take all necessary action toward getting a separate bill on this matter introduced and supported at the earliest appropriate time.

To be more representative of the officers in the junior grades on active duty and to benefit from their views, the Board directed the President to appoint one junior officer from each of the services to sit with the Board at future meetings.

The investigation of employment opportunities and the placement of judge advocates and legal specialists leaving the service by retirement or completion of obligated tours was considered. The personal knowledge of the Board members

of opportunities for employment of retiring judge advocates as bank trust officers, law education administrators, bar association administrators and as lawyers in private

law firms made it appear practical to consider some form of placement service to the members. The matter was referred to a committee chaired by Col. Joseph F. O'Connell, Jr.



BURKE NAMED "ADMIRAL" OF N. Y. NAVY

Captain Robert G. Burke, Director and past President of the Association, has been appointed by Governor Rockefeller as the Commanding Officer of the New York Naval Militia. In this position, Captain Burke will command some 5,000 officers and militiamen with train-

ing centers throughout the State of New York as well as some 3,000 militiamen released from State service for active duty with the regular Navy and Marine Corps. The position is without salary and the tenure is at the pleasure of the Governor.

COLORADO JAA MEMBERS MEET

Colonel Milton Blake, the Association's state chairman for Colorado, reports that the Colorado section of JAA had its annual meeting on 11 October 1963 at the Air Force Academy, Officers Open Mess, Colorado Springs. The guest speaker was Colonel Thomas R. Taggart, the Staff Judge Advocate of the Air Defense Command. Colonel Taggart is, of course, a member of the Association and formerly a member of the Board of Directors. Lieutenant Colonel Perry H. Burn-

ham was chairman of the committee on arrangements. Nearly one hundred officers of all services and components attended the meeting. The group plans to meet at least annually hereafter as a part of the program of the Colorado State Bar Association annual meeting.

State chairmen in other states are urged to plan local programs. They will be pleased with the results. The national office of JAA will assist and encourage them in every practical way.

