

# TEN YEAR CHRONOLOGY OF THE UNITED STATES COURT OF MILITARY APPEALS



1951-1961

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U.S. Court of Military Appeals.

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**June 1951 through June 1961**

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## Ten-Year Chronology of The United States Court of Military Appeals

The Uniform Code of Military Justice (10 USC § 801) became law on May 5, 1950. This Code had a profound effect on the judicial system of the Armed Forces of the United States. It unified the services in the field of military justice for the first time in history. The Code did not become effective until May 31, 1951, thus giving each service ample opportunity to prepare for the changes which were to take place.

The Code evolved really as a result of public clamor after World War I at which time many apparent or actual injustices were brought to light. At that time some major changes were made in the system and, in general, public concern over such problems dissipated. In the short span of years between World Wars I and II minor changes were made but with the advent of World War II it became very obvious that drastic changes and improvements were in order. The public became aware of many miscarriages of justice both through the press and through information received from relatives in the armed forces. For the first time since the Civil War almost every family in the Nation had a personal stake in the soldiers, sailors, and marines who were doing battle for the survival of a free world. As a result, more and more people became aware of the importance of a judicial system which while adequate to maintain military discipline, nevertheless would give rights to those accused of crime closely paralleling the rights enjoyed by the civilian community. The Uniform Code of Military Justice was designed to perform this function.

One of the most significant accomplishments of the Uniform Code of Military Justice was the establishment of a supreme court of the military composed entirely of civilians. The United States Court of Military Appeals, presently located at 5th and E Streets, N.W., Washington, D. C., is that Court.

To this military tribunal President Harry S. Truman appointed three men from civilian life. The Chief Judge was Robert E. Quinn, former Governor of Rhode Island and judge of the Superior Court in that State. Chief Judge Quinn was given a fifteen-year term of office. Associate Judge George W. Latimer was appointed for a term of ten years and Associate Judge Paul W. Brosman received the five-year appointment. All subsequent full appointments were to be for a term of fifteen years. The reason for the staggered terms was to avoid the possibility of two or more terms expiring at the same time.

Chief Judge Robert E. Quinn was nominated as Chief Judge of the Court by President Truman on May 22, 1951, for the term expiring May 1, 1966. He was confirmed by the Senate on June 19, 1951, and he took the oath of office June 20, 1951.

Chief Judge Quinn was born in Phenix, Rhode Island, on April 2, 1894. He received a Bachelor of Arts Degree from Brown University in 1915 and a Bachelor of Laws Degree from Harvard University in 1918. He was admitted to the Rhode Island Bar and was a practicing attorney in Providence, Rhode Island, from 1917 until he entered public office. He was a member of the United States Diplomatic Intelligence Service in England and France from 1917 to 1919, a member of the Senate of the State of Rhode Island from 1923 to 1925 and from 1929 to 1933. He

served as Lieutenant Governor of Rhode Island from 1933 to 1936, and as Governor of that State from 1937 to 1939. He became a judge of the Superior Court of Rhode Island commencing on May 1, 1941, and he served as legal officer of the First Naval District from 1942 to 1945. In 1943 Judge Quinn was requested by Secretary of the Navy Forrestal to collaborate with Arthur Ballantyne, Esquire, of New York in reviewing the Articles for the Government of the Navy. In 1944, he was sent to the Pacific Ocean Area by Secretary Forrestal to adjust certain extraterritorial problems with New Zealand, Australia, and other nations, and to study the operation of military justice in that area. He was attached to the U. S. S. Miza and was recommended by Admiral Thomas L. Gatch for the Legion of Merit for "giving advice and instruction on ships and stations in the Pacific Ocean Area, in combat areas, and during combat. . ." He was awarded the Commendation Medal and ribbon by Secretary Forrestal and also by Secretary Matthews. In addition, he was cited by the United States Army for Distinguished Service. Judge Quinn is a member of the Democratic Party.

Judge George W. Latimer was nominated by President Truman as judge of the United States Court of Military Appeals on May 22, 1951, for the term expiring May 1, 1961. His nomination was confirmed by the Senate on June 19, 1951, and he took the oath of office on June 20, 1951.

Judge Latimer was born in Draper, Utah. He attended grade schools in Salt Lake City, Utah. He received a Bachelor of Laws Degree from the University of Utah in 1924. He was a practicing attorney in Salt Lake City from 1925 to 1940 and from 1945 to 1946. He enrolled in the Reserve Officer Training Corps at the University of Utah in 1920. He

was commissioned in the National Guard in 1925 and served that organization in all ranks from second lieutenant to colonel. He was inducted into the Federal service as division staff officer of the Fortieth Infantry Division in February 1941. He was promoted to colonel and became chief of staff of the division and served in that capacity while the division was in Hawaii, Guadalcanal, New Britain, and Luzon, Negros, and Panay, Philippines. He engaged in combat in those areas in 1944 and 1945 and was awarded three battle stars and the Legion of Merit for duty while in combat. He was relieved from active duty in November 1945. Judge Latimer was elected to the Supreme Court of the State of Utah in 1947 for a ten-year term and served until June 1951 at which time he resigned to accept the appointment to the United States Court of Military Appeals. Judge Latimer is a member of the Republican Party.

Judge Paul W. Brosman was nominated as a judge of the United States Court of Military Appeals on May 22, 1951, for the term expiring May 1, 1956. He was confirmed by the Senate on June 19, 1951, and he took the oath of office on June 20, 1951.

Judge Brosman was born in Albion, Illinois, on November 9, 1899. He received a Bachelor of Arts Degree from Indiana University in 1926, a Bachelor of Laws Degree from the University of Illinois in 1924, Doctor of Juridical Science Degree from Yale University in 1929. He was admitted to law practice in Illinois in 1924 and Louisiana in 1942. He was an instructor in business law at Indiana University in 1924 and 1925 and an assistant professor at the same university in 1925 and 1926. He was professor of law at Mercer University from 1926 to 1928, a Sterling Fellow in Law at Yale from 1928 to 1929 and professor of law at Tulane

University from 1929 to 1932. Between 1932 and 1951 he was professor of law, assistant dean, and dean at Tulane University Law School. Judge Brosman served as a private in the United States Army in World War I. He was commissioned a major in the Army in 1942 and was assigned to the Army Air Force. He was chief of the Military Justice Division, Office of the Air Judge Advocate, Continental Air Command, Mitchel Air Force Base, Long Island, in 1950 and 1951. He was awarded the Legion of Merit. Judge Brosman was a member of the Democratic Party.

The Uniform Code of Military Justice, the law which established the United States Court of Military Appeals, specifically provided that not more than two of the judges of the Court could be appointed from the same political party, nor would any person be eligible for appointment to the Court who was not a member of the bar of a Federal court or of the highest court of a state. The Congress also gave to the President of the United States the prerogative to designate from time to time one of the judges as Chief Judge. From the date of original appointment to the writing of this chronology, July 1961, Robert E. Quinn has been the Chief Judge.

The Code also provided that "If any judge of the Court of Military Appeals is temporarily unable to perform his duties because of illness or other disability, the President may designate a judge of the United States Court of Appeals to fill the office for the period of disability." The President, to date, has not exercised this right.

The judges, having taken the oath of office on June 20, 1951, established on June 21, 1951, temporary quarters in Room 2-A-362 of the Pentagon Building, Washington, D. C. The Court convened for the first

time in said quarters on June 22, 1951, and approved the appointment of Mr. David L. Smith as Assistant to the Clerk. The appointment was effective June 25, 1951. Mr. Smith was the first employee hired by the Court.

The Court did not officially meet again until July 9, 1951, at which time it approved the appointments of Phyllis I. Roule as Secretary to Judge Brosman, and Ida M. Hansen as Secretary to Judge Latimer.

On July 11, 1951, the Court met again and approved "Rules of Practice and Procedure" for practice before the Court.

On July 12, 1951, the Court moved its quarters from the Pentagon Building and established further temporary quarters on the Seventh Floor of the Internal Revenue Building at 10th and Constitution Avenue, N.W., Washington, D. C.

The Charter members of the personnel of the Court and the dates they reported for duty are listed below. (It should be noted that the term "charter member" has been arbitrarily chosen by the author to refer to the three original judges and any employees hired during the year 1951.)

Robert E. Quinn, Chief Judge	June 20, 1951
George W. Latimer, Associate Judge	June 20, 1951
Paul W. Brosman, Associate Judge	June 20, 1951
David L. Smith	June 25, 1951
Ida M. Hansen	July 9, 1951
Phyllis I. Roule	July 9, 1951
Richard L. Tedrow	July 16, 1951
David F. Condon	July 16, 1951

Alfred C. Proulx	July 30, 1951
Louise Rowe	July 30, 1951
Leonora Brown (Vaz)	July 31, 1951
Anthony Ortega	August 3, 1951
Beatrice M. Meyer	August 6, 1951
Vincent Murray	August 31, 1951
Margery Sarff	September 17, 1951
Michael Katen	September 21, 1951
Daniel Walker	October 1, 1951
Montroze P. Wilson	October 1, 1951
Frederick R. Hanlon	October 15, 1951
Katherine J. Norman	November 5, 1951
Virginia Siegel	November 13, 1951
Edward Gallogly	November 28, 1951

The first admissions to the bar of the Court were had on July 25, 1951, when the Court, in open session in the courtroom of the United States Court of Customs and Patent Appeals (also located on the 7th Floor of the Internal Revenue Building), recognized the eminent qualifications of Rear Admiral George L. Russell, Judge Advocate General of the Navy, Major General Reginald C. Harmon, Judge Advocate General of the Air Force, Brigadier General James L. Harbaugh, Jr., Judge Advocate General of the Army, and Mr. John K. Carlock, Assistant General Counsel for the Department of the Treasury. Thereafter, on the same day 43 officers and civilian attorneys were sponsored by the original four members of the bar and were duly admitted to practice before the Court.

The Code provides that review of cases by the Court may occur in three different ways.

1. All cases in which the sentence, as affirmed by a Board of Review, affects a general or flag officer or extends to death.
2. All cases reviewed by a Board of Review which The Judge Advocate General orders forwarded to the Court of Military Appeals for review.
3. All cases reviewed by a Board of Review in which, upon petition of the accused and on good cause shown, the Court of Military Appeals has granted a review.

In any case reviewed by it, the Court of Military Appeals shall act only with respect to the findings and sentence as approved by the convening authority and as affirmed or set aside as incorrect in law by the Board of Review. The Court may take action only with respect to matters of law.

The first case docketed with the Court was United States v. John J. McSorley. The opinion in this case was released on November 29, 1951. The petition was dismissed for lack of jurisdiction. The opinion may be found at page 84 of Volume 1 of the Court's reports.

The first case heard by the Court was United States v. Mickey McCrary, Private, United States Air Force (Docket No. 4). The case, argued on September 7, 1951, had been certified to the Court by The Judge Advocate General of the Air Force. On argument Colonel Abner E. Lipscomb represented the accused, McCrary, and Lieutenant Colonel Jean F. Rydstrom and Captain William E. Shannon represented the United States.

The case of United States v. McCrary, 1 USCMA 1, became the first opinion released by the Court. This occurred on November 8, 1951. Judge

Latimer wrote the majority opinion in which Judge Brosman concurred with a separate opinion. Chief Judge Quinn dissented with a rather lengthy opinion. The decision of the Board of Review which had affirmed the conviction was affirmed by the Court.

On September 28, 1951, President Harry S. Truman signed Executive Order 10295 establishing the Seal of the Court which was described therein as follows:

In front of a silver sword, point up, a gold and silver balance supporting a pair of silver scales, encircled by an open wreath of oak leaves, green with gold acorns; all on a grey blue background and within a dark blue band edged in gold and inscribed "United States Court of Military Appeals" in gold letters.

Replicas of this seal are located in the lower main hallway at the entrance to the Court, in the Clerk's Office, in the chambers of each judge, and in the Courtroom itself.

In the first year of the Court's existence, through June 30, 1952, the Court released ninety-seven opinions. In that period nine hundred and ninety-six cases were docketed with the Court. In the next fiscal year, that is, the period July 1, 1952, to June 30, 1953, the Court docketed the largest number of cases for any year up to the present date. In that year two thousand two hundred and fifteen cases were docketed. Thereafter, the number of cases filed with the Court leveled off so that as of June 30, 1961, fifteen thousand one hundred and eighty-two cases had been docketed, an average in a ten-year period of one thousand five hundred and eighteen cases per year.

The decrease in the number of cases may be attributed to several factors. First, the decisions of the Court have established the law on many points so that many of the errors committed in the lower tribunals have now been corrected. Also the number of men in the armed forces has decreased each year thus cutting down on the number of courts-martial. For example, on July 1, 1951, there were approximately one million six hundred thousand personnel in the Army and in the fiscal year July 1, 1951, to June 30, 1952, the Army held eight thousand and thirty-seven general courts-martial. On July 1, 1959, the personnel of the Army had been reduced to approximately eight hundred and seventy-three thousand and in the year July 1, 1959, to June 30, 1960, the Army held two thousand and sixty general courts-martial. In addition, it should be remembered that in the early stages of the Court's existence the United States was involved in the Korean conflict.

These reasons, plus others, such as the awarding of administrative discharges in lieu of a court-martial, a practice which this Court deprecates, have tended to reduce the number of cases coming before the Court of Military Appeals. While the case-load has been reduced, some idea of the tremendous work accomplished by the Court in its early years can be gleaned from the fact that it is still one of the busiest appellate courts in the country.

The opinions of the Court were originally published in mimeographed form and then printed in pamphlet form by the Government Printing Office. Contacts were made with publishing firms and in early 1952 a contract was made with The Lawyers Co-operative Publishing Company for the printing of advance sheets and, at the proper time, bound volumes. Generally, the

same procedure is used today. Opinions are released in mimeographed form on Fridays at noon. At that time they are sent to the publishing company in Rochester, New York, and within the space of ten days to two weeks the printed advance sheet with headnotes is completed by the publisher. The plate for these advance sheets serves as the plate for the printed volume.

To date the Court has eleven volumes outstanding and volume twelve is well on the way. These volumes contain all the opinions of the Court as well as final actions on every case filed with the Court. Volume 1 also contains the Rules of Practice and Procedure although such Rules have been modified three times since they were originally adopted on July 11, 1951. The Rules were revised March 1, 1952, May 31, 1953, and January 1, 1959. Under the present case-load the Court completes about one volume of cases a year.

On April 12, 1952, the Court submitted an "Interim Report of the United States Court of Military Appeals" to the Committees on Armed Services of the Senate and House of Representatives and to the Secretary of Defense and the Secretaries of the Army, Navy, Air Force and Treasury pursuant to the requirements of the Uniform Code of Military Justice. This report was made solely by the Court and covered the period May 31, 1951, to March 1, 1952. In the years thereafter the Annual Reports have been submitted in conjunction with the Reports of the Army, Navy, Air Force, and Coast Guard (Treasury). Such reports were made on a calendar year basis except for the year 1952 where, after the interim report, the next report was filed for the period May 31, 1951, to May 31, 1952. In

each of the Annual Reports the Court and the respective services filed individual reports and also a joint report. However, the joint report was omitted in the report for the year January 1, 1960, to December 31, 1960. There were several reasons for the omission but the most significant was that the Army, in its report, indicated it no longer agreed with all the recommendations that had been made previously and therefore submitted its own new recommendations for changes to the Uniform Code. Since these changes had not been submitted to the Code Committee beforehand there had been no discussion as to the merits or demerits of such proposals. This eliminated the possibility of agreement on any matters of substance in a joint report.

In 1952 the Court took under consideration the appointment of a Civilian Committee to study the progress made under the Uniform Code of Military Justice during the first two years of its actual operation with a view to recommending improvements wherever necessary. Thus on January 15, 1953, the Court established the Court Committee consisting of the following distinguished lawyers: Whitney N. Seymour (Chairman), New York; Ralph G. Boyd, Massachusetts; Felix E. Larkin, New York; Dean Joseph A. McClain, Jr., North Carolina; George A. Spiegelberg, New York; Professor Arthur E. Sutherland, Massachusetts; Henry T. Dorrance, New York; and Donald L. Deming (Secretary), New York.

That Committee held its first meeting in Washington, D. C., on May 28, 29, 1953, and thereafter met three times in New York City and once again in Washington, D. C. This last meeting was held May 23, 1956. While consideration was given to further meetings none has been held due

to inability to co-ordinate the members of the Committee at a convenient time and also due to the failure of Congress to act upon the various earlier recommendations.

After the Court moved to its permanent quarters at 5th and E Streets, N. W., Washington, D. C., in October 1952, the great majority of the sessions of the Court were held at that address. However, there were sessions held for various reasons at other locations.

On August 17, 1954, a special admission session was held in conjunction with the Annual Meeting of the American Bar Association, at the United States Courthouse in Chicago, Illinois. Chief Judge Quinn and Judges Latimer and Brosman were present. At that session three hundred and thirty-six applicants were admitted. This was the largest admission session held in the ten-year history of the Court.

On July 19, 1956, a special admission session was held at Fort George G. Meade, Maryland. Judge Latimer was present as presiding judge. Fifty-six applicants were admitted.

The next special session took place less than a month later, specifically, August 15, 1956, at Ross Auditorium, Great Lakes Naval Station, Great Lakes, Illinois. Chief Judge Quinn presided and two hundred and one applicants were admitted.

On August 22, 1956, a special admission session was held at Patrick Hall, Fort Benning, Georgia. Judge Latimer presided and one hundred and three applicants were admitted.

On August 28, 1956, a special admission session was held in the United States District Court for the Northern District of Texas, Dallas,

Texas, in conjunction with the Annual Meeting of the American Bar Association. Chief Judge Quinn, Judge Latimer and Judge Ferguson presided. One hundred and forty-eight applicants were admitted.

On November 19, 1956, a special admission session was held in the Bar Association Building in New York City. Judges Latimer and Ferguson presided. One hundred and seventy-six applicants were admitted to the bar.

On July 27, 1957, a special session was held in the Conference Room, Headquarters Third Air Force, Victoria Park Estate, South Ruislip, Middlesex, England. Chief Judge Quinn and Judge Ferguson presided at the admission of ten applicants.

On August 19, 1958, a special admission session was held at the United States Postoffice, Yukon, Alaska, eight miles from the Arctic Circle. Chief Judge Quinn presided. One applicant was admitted.

The following day, August 20, 1958, a special session was held at Camp H. M. Smith, Honolulu, Territory of Hawaii. Judge Ferguson presided and nineteen motions for admission were granted.

Finally, on August 3, 1960, a special session was held at the United States District Court, Federal Building, Honolulu, Hawaii. Judge Latimer presided at the admission of sixty-eight applicants.

As stated previously, the United States Court of Military Appeals has been located at 5th and E Streets, N. W., Washington, D. C., for the past eight and one-half years. The building occupied by the Court was authorized by the Congress by Act of May 30, 1903 (35 Stat 544), for the use of the Court of Appeals of the District of Columbia. That Court was established by Act of February 9, 1893 (27 Stat 434). Under the Act

of June 7, 1934 (48 Stat 926), the title of the court was changed to "United States Court of Appeals for the District of Columbia." Under the Act of June 25, 1948 (62 Stat 870), the title of the court was changed to "United States Court of Appeals for the District of Columbia Circuit." When that Court moved to the new courthouse at 3d Street and Constitution Avenue, N. W., the Court of Military Appeals took over the building.

The original authorization of the Congress provided for construction of the building under the supervision of the Architect of the Capitol at a limit of cost of \$200,000. Subsequent appropriations, totaling \$240,792 for construction, and, in addition, \$29,600 for furnishings were provided.

The building, located in Judiciary Square, was completed and occupied October 1, 1910.

Pursuant to the provisions of section 404 of the Judiciary Appropriations Act, 1953, jurisdiction over the building was transferred from Architect of the Capitol to the General Services Administration, effective October 1, 1952.

The United States Court of Military Appeals moved into the building on October 31, 1952.

Only one of the original appointees to the Court, Chief Judge Quinn, is still on the bench at this time. On December 21, 1955, Judge Brosman died suddenly of a heart attack in his chambers on the second floor (Room 217) of the Court's Building at 5th and E Streets, N. W., Washington, D. C. The Honorable Homer Ferguson, former United States Senator from

Michigan, was nominated by President Dwight D. Eisenhower on January 30, 1956, to fill the unexpired five-year term of Judge Brosman, and for a fifteen-year term ending May 1, 1971. At the time of his nomination Judge Ferguson was Ambassador to the Philippines. The appointments were confirmed unanimously by the United States Senate on February 17, 1956. Judge Ferguson was given the oath of office in the West Conference Room of the Supreme Court Building by the Chief Justice of the United States, Earl Warren, on April 9, 1956.

Judge Ferguson was born in Harrison City, Pennsylvania. He attended the University of Pittsburgh and received a Bachelor of Laws Degree from the University of Michigan in 1913. He was admitted to the Bar of Michigan in 1913. He practiced law in Detroit from 1913 to 1929. He was appointed Circuit Judge of the Circuit Court of Wayne County, Michigan, in 1929 and was elected to successive terms until the year 1941. He sat as a one-man grand jury in Wayne County, Michigan, from August 1939 to the end of 1942. He was United States Senator from Michigan from 1943 to 1955. He was United States Ambassador to the Philippines from March 22, 1955, to April 8, 1956, at which time he resigned that position to accept appointment to the United States Court of Military Appeals. Judge Ferguson is a Republican.

On February 15, 1956, memorial proceedings were held in the Courtroom at 10:00 a.m. with Chief Judge Quinn and Judge Latimer presiding. Respects were paid to the Late Judge Brosman in remarks made by Chief Judge Quinn, Brigadier General Herbert M. Kidner, United States Air Force, Major General Eugene M. Caffey, United States Army, Rear Admiral

Ira H. Nunn, United States Navy, Major General Reginald C. Harmon, United States Air Force, Honorable Fred C. Scribner, Jr., Department of the Treasury (representing the United States Coast Guard), and Honorable Frederick Bernays Wiener, Secretary, The Judge Advocates Association. Judge Brosman's chair was draped in black for the ceremony.

On February 25, 1957, a meeting was held in the Courtroom for presentation of a bronze plaque in the memory of the late Judge Paul W. Brosman. Chief Judge Quinn and Associate Judges Latimer and Ferguson sat on the bench. The officers and directors of The Judge Advocates Association took chairs reserved for them in the well of the Courtroom. The public section of the Courtroom was filled with other friends of the late Judge Brosman, including Judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, The Judge Advocate General and the Assistant Judge Advocate General of the Air Force, and distinguished members of the bar of the Court of Military Appeals. Chief Judge Quinn recognized Colonel Nicholas Allen, President of The Judge Advocates Association, who gave a eulogy of Judge Brosman and presented a bronze plaque to the Court on behalf of The Judge Advocates Association. Colonel Thomas H. King, First Vice-President of the Association and Chairman of the Committee on Arrangements for the occasion, and Richard Love, Secretary of the Association, unveiled the plaque, the inscription on which reads as follows:

In Memory of  
Judge  
Paul W. Brosman  
One of Our Charter Members

Who Died on December 21, 1955,  
while serving as one of  
the Original Judges on the  
United States Court  
of Military Appeals  
Dean and Teacher of the Law  
Judge Advocate, U. S. Air Force  
By his Associates in the  
Judge Advocates Association

Chief Judge Quinn thanked the members of the Association and accepted the plaque on behalf of the Court, noting that it would be given a place of prominence in the Courthouse. He praised the work of Judge Brosman and lauded him personally as an able legal scholar and a friend.

Judge Latimer spoke of Judge Brosman as a friend, an indefatigable worker, a stylistic writer and a judge whose judgment was sound.

Judge Ferguson stated that although he had not known Judge Brosman personally he had a very high regard for Judge Brosman's opinions and work in the Court. Thereupon, the Court adjourned. The plaque was later placed in the stairwell of the Court between the first and second floors where it remains to this day.

On November 18, 1958, the Court noted with regret the death of Chief Judge Bolitha J. Laws by adopting the following resolution:

"The United States Court of Military Appeals notes the recent passing of Honorable Bolitha J. Laws, Chief Judge of the United States District Court for the District of Columbia with deep regrets. In his death, the Nation suffers the loss of a man of learning, industry, wisdom and understanding, who, dedicated to the cause of justice, served his trust and country well. He will forever be recognized as an able and outstanding jurist and he will long be remembered in gratitude by his fellow countrymen."

Copies of this resolution were forwarded by the Clerk of the Court to Mrs. Bolitha J. Laws of Washington, D. C., and to Honorable F.

Dickinson Letts, Chief Judge of the United States District Court for the District of Columbia.

On May 27, 1959, the Court, with Chief Judge Quinn and Judges Latimer and Ferguson present, adjourned out of respect to John Foster Dulles, former Secretary of State, who died Sunday, May 24, 1959, and who was to be buried on the afternoon of May 27 at services held in the National Cathedral and at Arlington National Cemetery.

On October 20, 1959, the Court established a grievance committee composed of three members of the bar of the Court. Honorable Nicholas Chase was named Chairman of the Committee, and Major B. R. Kennedy, United States Army (Retired), and Reverend Joseph M. Snee, S. J., were designated as members of the Committee. The Court's first problem in this field was referred to the Committee on this date.

The grievance committee made its report and recommendation to the Court on January 7, 1960, and on January 11, 1960, a rule to show cause was issued to the party concerned. Thereafter, on February 17, 1960, the first and, up to the present time, the only disbarment order was issued by the Court.

On March 24, 1961, the Court, in regular session, recognized Commissioner Daniel F. Carney who introduced to the Court Colonel Edward T. Johnson, United States Army, Chief of the Army Field Judiciary Division, who was to be retired March 31, 1961. Chief Judge Quinn, Judge Latimer,

and Judge Ferguson all commended Colonel Johnson on his fine work on the law officer program and wished him good fortune in his retirement.

On May 1, 1961, the term of office of Judge George W. Latimer, who served under a ten-year Presidential appointment, expired.

In the first ten years of its operation through June 30, 1961, the Court admitted 9,091 applicants to the Bar of the Court. In addition, the Court granted honorary membership to 25 lawyers from eight foreign countries. The countries include Sweden, Thailand, Philippines, Burma, Vietnam, Taiwan, Korea, and Nicaragua.

In addition to the three judges, the Court has a staff of approximately 39 employees, all civilians. To assist the judges in the review of the many cases received by the Court, there are at present ten Court Commissioners and one Chief Commissioner. Mr. Richard L. Tedrow has been the Chief Commissioner since he came on duty with the Court in July 1951. It is the function of the Commissioners to review the cases as they are received in the Court. A case is considered received when a petition is filed by the accused, or a certificate is filed by one of the Judge Advocates General, or when an Assignment of Errors (in a mandatory case) is filed, and a reply to the initial pleading has been filed. The date of receipt is significant because the Court, after receipt of the reply in each case, has thirty (30) days in which to act, that is, either grant, deny or dismiss the proceeding. The reviews, the pleadings, and the record of trial are sent to the judges who after

careful consideration make the final decision as to the action to be taken. If the case is denied, then normally that is the end of legal appellate review in the military system. The only exception to this would, under ordinary circumstances, be a petition for reconsideration filed with the Court. If the petition is granted or if the case is either one certified by a Judge Advocate General or a mandatory case (a case involving the death penalty or one affecting either a general or a flag officer), then the case is set down for hearing. Two judges constitute a quorum and the concurrence of at least two judges is required for the rendition of a final decision. Therefore, of course, at least two judges must sit to hear a case. Normally, all three judges participate in the hearings, the only exception being the unavailability of one judge because of sickness or other pressing business, such as an appearance before a Congressional Committee. After a case has been heard the judges meet and determine which of the judges shall write the opinion in a given case. Obviously, if the judges are in disagreement on the disposition of a case, the opinion is assigned to one of the two judges who agree.

After the opinions are released the parties may request rehearing, modification or reconsideration of the Court's action. However, such a petition must be filed with the Court within five (5) days of the receipt of notice of entry of an order, decision or opinion of the Court. Mandates (on opinion cases only) are issued twelve (12) days after the release of an opinion. Issuance of the mandate brings to a close the legal appellate review of the case in the Court unless the Court has ordered further action by one of the lower echelons of the court-martial

system. Thus, further action on a case by a board of review in the office of The Judge Advocate General is usually appealable to the Court again.

In addition to the employees in the immediate chambers of the judges and also the office of the Commissioners, there is, of course, as in all courts, a Clerk's Office. Alfred C. Proulx is Clerk of the Court and he has held that position since he came with the Court in July 1951. In addition, that office has a Deputy Clerk and various clerical employees. The Clerk's office is responsible for the receipt and recording of all papers and pleadings filed with the Court and action taken by the Court on any case coming before it.

The Court has a very fine legal library on the third floor of its building. Numbering approximately 13,000 volumes, the Library holdings include basic reference works common to both general and law libraries; legal volumes covering the Federal and state statutes; decisions of the Supreme Court of the United States, the Federal courts, and state courts as recorded in the West Publishing Reporter System; pamphlets and loose-leaf services necessary for the operations of the Court; and voluminous material from the military services in connection with the military laws and regulations coming within the scope of the Uniform Code of Military Justice; as well as fairly comprehensive collections in such specializations as criminal law, military law, law of evidence, certain aspects of international law. In addition, there are smaller personal collections of legal reference works located in the chambers of each of the three judges.

Since April 1952, the Library has been in the very capable hands of Miss Dorothy V. Allport. It is largely through her efforts that such an excellent library is available to personnel of the Court and members of the bar of the Court.

On June 1, 1961, President Kennedy announced from Paris, France, that he intended to appoint Representative Paul J. Kilday, Democrat of Texas, as a judge of the Court to succeed Judge Latimer. Press Secretary Pierre Salinger issued a statement which said that Mr. Kilday plans to "serve out the current session of the Congress so that his district will have representation." On June 28, 1961, the Senate officially received the executive nomination of Congressman Kilday.

In its ten-year history the Court has made a profound impact on military justice. During that period, the Court has had much praise for the work it is doing in promoting a fair and equitable military justice system. There have also been critics on the other side who feel the Court has changed the system so radically that military discipline has been adversely affected.

To all who have an interest in military justice, and this should include everyone, it can be stated without equivocation that the Court has done, and is doing, what the people of the United States through their duly-elected representatives have authorized it to do. When justice is done, discipline cannot suffer. Discipline is a function of command. When there is a lack of discipline, there is a lack of command. If those in command are unable to achieve a high state of

discipline, it constitutes persiflage to attempt to transfer the blame to a military justice system which is in essence the same as its civilian counterpart. It should be noted, however, that there is no indication that discipline actually has suffered during the operation of the Uniform Code of Military Justice.

In October 1959, General L. L. Lemnitzer, Chairman of the Joint Chiefs of Staff, stated:

"I believe that the Army and the American people can take pride in the positive strides that have been made in the administration and application of military law under the Uniform Code of Military Justice. The Army today has achieved the highest state of discipline and good order in its history."

In September 1960, General G. H. Decker, Chief of Staff, United States Army, stated:

"Today our Army has the highest state of discipline and of personal conduct in our history. We have never had better morale within the Army."

The Court of Military Appeals looks back with pride upon its ten-year history. Its work is not yet accomplished -- it can never be -- for the law is a living thing. Amendments and improvements in the law will always be possible. The enforcement and interpretation of the law is dynamic in nature, not static, and so long as we operate under a democratic system the law will remain dynamic. This is the way in which the Court of Military Appeals has construed the mandate of Congress in the Uniform Code and this is why the Court looks forward to the future with hope and anticipation -- hope that the Code will be an instrument by

which the military will achieve justice and maintain discipline, and anticipation that the improvements in the Code already recommended to the Congress will come to fruition in the very near future.