TABLE OF CONTENTS

MAJOR GENERAL THOMAS H. GREEN, THE JUDGE ADVOCATE GENERAL

THE GENERAL’S PAGE
THE PRESIDENT SAYS
MEET GENERAL GREEN
THE JUDGE ADVOCATE GENERAL—PEARL HARBOR TO V-J DAY
THE RULE AGAINST EX POST FACTO LAWS AND THE PROSECUTION OF THE AXIS WAR CRIMINALS

Dr. Hans Kelsen

PUNISHMENT OF WAR CRIMINALS
Major Joseph S. Robinson, JAGD

JOHN ANDRE: OFFICER AND GENTLEMAN
Colonel W. A. Graham, U.S.A. Retired

WORK OF THE BOARDS OF REVIEW
Colonel William A. Rounds, JAGD

HONOR ROLL

THE END OF THE BOJAG-MTO TRAIL
Major Cicero Sessions, JAGD

OUR MAIL POUCH

WASHINGTON NEWS AND VIEWS

THE JUDGE ADVOCATE GENERAL’S SCHOOL
Captain George F. Forbes, Jr., JAGD

JUDGE ADVOCATE GENERAL’S SCHOOL ALUMNI NOTES

LIST OF PROMOTIONS

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The Judge Advocate Journal is not an organ of the War Department. The views expressed in the Journal are those of the author of each article primarily. It is the policy of the Journal to print articles on subjects of interest to officers in the Judge Advocate General’s Department in order to stimulate thought and promote discussion; this policy will be carried out even though some of the opinions advanced may be at variance with those held by the Officers and Directors of the Judge Advocates Association and the Editors.

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THIS IS THE LAST opportunity I shall have to address you as The Judge Advocate General. Our associations during the War years have been such that I find this prospect not untangled with sadness. However, I like to think that the friendships we have formed are personal as well as official and will not cease upon my retirement.

I am happy to have this opportunity to thank sincerely all judge advocates for their patriotic service to this Department and their country during World War II. Demands have been and are still being made upon the Judge Advocate General’s Department on a scale hitherto unknown in the history of the Department. Our activities had to be geared to a global war. The professional skill, the energy and the loyalty of over twenty-nine hundred judge advocates have combined to make it possible for our Department to meet those demands and, in my opinion, meet them well.

You represent a cross section of the finest of the bar in the United States so it is small wonder that, with men of your caliber in our Corps, the Department has been able to render this service to the country.

Although hostilities have ceased, service continues as the watchword of the Department. I am confident that General Green will have your continued loyalty. With that, both he and the Department can look to the future with confidence.

In the coming months many of you will be returning to private practice, in nearly every instance to take up careers interrupted by your war service. The task of reestablishing your practice will not always be easy but, knowing you as I do, I am confident that you have the ability to meet the problem. I hope that your task of reconversion will not be too difficult and that you will enjoy every success in your practice. You will find that your experience in this Department will prove of value to you in civilian life. I hope, too, that you will always maintain your interest in our Corps so that, should the need ever again arise, we shall have a strong group both willing and capable of serving.

One of my most pleasant reflections as I am about to terminate my service is the thought that you share my pride in being a member of our Corps which, as I have said many times before, I believe to be the finest body of professional men in the Army.

I shall always retain an interest in and affection for you personally and individually. I trust that in the future we may meet many times. Until then, good bye and good luck.

MYRON C. CRAMER
Major General
The Judge Advocate General

30 November 1945
As it WORTHWHILE? That is a question that many of us will ask of ourselves as we return to civilian life.

In our day to day existence during the war, our contribution to the war effort as lawyers and in Judge Advocates seemed so insignificant and unimportant that without any hesitation the answer then would have been in the negative most emphatically and sometimes almost tearfully. That was understandable because we were classed in Service of Supply. We were a part of the overhead. We were far down the line from the man who pulled the trigger. There was no excitement, fame or glory to be expected, but only the daily grind and drudgery that falls to the lot of the professional worker in a specialized branch of a large organization. Right or wrong we all subscribed to the theory of soldiers first and lawyers second and we got some measure of consolation when we cheerfully exercised our soldier’s prerogative to gripe about everything and everybody whether justified or not.

In addition to this, there was the frustration due to red tape, the necessary regimentation, and the subordination of will and action to rank. It is one of the unnoticed phenomena of our citizen’s army that so many lawyers, by nature contentious and independent, in thought and action, buckled down and played the game in accordance to the rules made by professional soldiers. There were many times when we could have predicted with certainty that we would close out our Army careers thoroughly disillusioned, disgruntled, bankrupt in originality and imagination, and void of initiative and confidence. In civilian life, lawyers as a class are the most abused but the most trusted and so it is in the military. The tough old line officers whose inner satisfaction of duty performed and the job finished. The Judge Advocates are essentially men of originality and imagination, and void of initiative and confidence. In civilian life, lawyers as a class are the most abused but the most trusted and so it is in the military. The tough old line officers have the hard job of dealing with, at first had little respect for the Judge Advocate. Those were dark and troubled days. We were unsure of ourselves. uncertain and anxious about the future and impatient to finish the job and regain our families.

Now, for the most of us, we are home. Have we a profit? Let’s count the chips.

We find we were provided with a wise, patient, and kindly but firm leadership in the person of General Cramer. His immediate assistants, Regular Army Officers, were extraordinarily industrious and capable, and enthusiastically carried out their sound policies and administered his affairs loyally, faithfully, and unselfishly with great credit to themselves and to the Corps. We find that we have become intimately acquainted with a large number of competent lawyers and fine fellows from all States of the Union which we would not have met except for our service in the JAG. Warm and lasting friendships have been formed which will be counted, in later years, as our greatest and most valued treasures. We find a storehouse of fond recollections of the kind thoughtfulness, the willing and generous help, the wise counsel, the warm hospitality, and the happy associations of our friends. Therefore is the tie that binds us together. Lastly, we leave with the knowledge and the inner satisfaction of duty performed and the job finished. That there are few among us who do not proudly wear the crossed sword and quill gives ample testimony to the fact that the job was well done.

Now to the business of the Judge Advocates Association. Never can the President of this Association speak without reminding the members that the dues for 1945 became due on January 1st and the dues for 1946 are now due. You who have not paid your dues can now take time off without losing the war. It is urgently requested that you attend to this piece of business without delay. Our good Treasurer, Lt. Col. Cope, has done an outstanding job and I know he would be pleased if he could report the membership paid up 100 percent.

This is my swan song as your President. Nothing could be more appropriate than to sing a swan song in Nuremberg in the heart of Germany along with the once haughty leaders of the mighty Deutschland. Theirs it attained to the utter destruction, desolation, fear and misery that surrounds them. Mine is on a grateful note of appreciation to all the Officers and Directors of the Association for their wholehearted and unselfish support. We all worked in the hope that the members would find some benefit in their association and we like to think that this Journal contributed in a small way as one of the millions of other small efforts which brought about our victory over our vanquished foes. Especially do we thank those who, at great personal sacrifice, contributed articles for publication in the Journal. At the risk of offending others, I want to acknowledge publicly, my sincere thanks to Major Clarence L. Yancey and Captain Sherwin T. McDowell, Editor and Associate Editor of the Journal, for their industry and faithfulness to duty, their loyalty and enthusiasm, and their painstaking and intelligent work in preparing and editing this Journal. For the excellence of this publication the major part of the credit is theirs. Every member owes them a debt of gratitude for their fine work.

(Continued on Page 45)
A DISARMING candor characterizes the man who became The Judge Advocate General on 1 December 1945. He, like his predecessor, has risen from the grade of private in the Cavalry to the post of chief legal officer in the War Department and the Army with the rank of Major General.

General Green is the kind of a fellow you enjoy meeting in the line of duty. At his side, where long, bowled officers were once required to fire the carbine at a range set up in Rock Creek Park. The final evidence of this fencing were the unusually satisfactory and about this time there was speculation in the corridors of the Munitions Building that the "Old Man" was about to send the office force out for an hour of close order drill each morning up and down Constitution Avenue.

The arrival of General Green at the office did more than impress the officers that they were first of all soldiers and not just lawyers in uniform. He also demonstrated that he knew about running a legal organization. He proceeded upon the assumption that when other War Department agencies asked for a legal opinion they should have it in a hurry and with no haggling and sidestepping the answer should be promptly and simply stated and to the point. He insists that The Judge Advocate General must stand by to render a real service. He liberalized the scope of the office's work and accepted and answered many a query which might have been sent back with the terse notation that under the regulations The Judge Advocate General would not be required to answer that one.

General Green was born in Cambridge, Massachusetts, on 22 April 1889, and graduated from Boston University with a degree of Bachelor of Laws. He was admitted to the bar of Massachusetts and practiced law in Boston until he was called into Federal service with the Massachusetts National Guard in 1916 for border patrol service. He was commissioned a second lieutenant in the Regular Army and assigned to duty with the 3rd Cavalry on 20 November 1917 at Fort Ethan Allen, Vermont. He later transferred to the 15th Cavalry at Douglas, Arizona and went to France with that regiment in March 1918. He served at various places in France and participated in the Meuse-Argonne Offensive. He attained the temporary rank of major while overseas and served as commanding officer of his regiment in bringing it back to the United States. Thereafter he held numerous assignments and manifested a renewed interest in the law by pursuing studies at George Washington University which culminated in his receiving the degree of Master of Laws in 1923. On 22 December 1924 he transferred from the Cavalry to the Judge Advocate General's Department.

In his tours of duty thereafter he served in the Civil Affairs Section of the Judge Advocate General's Office in Washington, as Assistant Judge Advocate of the Second Corps Area at Governor's Island, New York, followed by a further tour of duty in the Judge Advocate General's Office where he was assigned to the Military Affairs Section and later the Chief of the Paris Division of that office until June 1939. During this period he was also detailed to take a special field officer course at Chemical Warfare School, Edgewood Arsenal, and he

(Continued on page 23)
That his efforts bore fruit is attested by the cordial relations he maintained with all who worked under him, including his own Secretary and Under Secretary of War. He was well respected by all, as is evident from the following statement made by a former Secretary of War: "General Cramer was a man of rare integrity and a great public servant. He was always available to his subordinates and always ready to listen to their opinions. His wisdom and counsel were sought by many, and he never failed to respond with a thoughtful and constructive response."

He was a man of great vision, and his dedication to the Department was evident in all that he did personally, as well as in the way he worked with others. His motto, "Service," was a reflection of his approach to his work, and it is one that is still remembered today.

His eye for detail was legendary. One afternoon while working over the last roughs remaining in the "In" basket, he suddenly noticed that the date on a document was incorrect. He corrected the date to 1943, the correct date, and then went on to work on the document. This story is about the man and not about the accident.

His eye for errors is legendary. One evening while working smoothly it caused a veritable avalanche of paper work to be turned away. This at the expense of longer working hours for the General himself. In another way, this "open door" policy typifies the way in which the General approached each problem. He took hold of each with refreshing open-mindedness.

His habit of letting the other fellow do the talking sometimes jumped to the conclusion that his silence imported a failure to comprehend the problem. A pointed question here and there quickly dispelled this conclusion and frequently left the caller discomfited at his lack of ready answer to an invasive query. Then he would go back for more research, resolved not to return without all possible inquiries covered.

Another trait of General Cramer's is his habit of letting the other fellow do the talking. Some people jumped to the conclusion that his silence imported a failure to comprehend the problem. A pointed question here and there quickly dispelled this conclusion and frequently left the caller discomfited at his lack of ready answer to an invasive query. Then he would go back for more research, resolved not to return without all possible inquiries covered.

Nor is the General without a quiet sense of humor. An incident that occurred at the JAG School is still recalled with a smile. The General was reviewing the troops at one of the graduation parades. The loud speaker sounded guffaws and flourishes and all rendered the band salute. Then, unfortunately, the needle stuck on the record. Colonel Young, whose passion for precision is well known to his graduates, endeavored to apologize to General Cramer. "Forget it," replied the General, "keep it going. In another 30 seconds I'll be a Field Marshal!"

Although he held office during the most trying times, the General never, to the knowledge of his staff, lost his temper—that is, about matters of routine. One office gadget was very dear to his heart and thereby hangs a story of lost batteries. Beside the General's desk was an interoffice communication gadget, known on the office inventory as "Dictograph, Model 22-220," but known to all who worked with it as the "mechanical rat trap." When working smoothly it put the General in instant touch with his division chiefs. When not working smoothly it caused a veritable avalanche of difficulty. On one of the frequent days when it was out of repair (it limped along for the greater part of a year on second hand batteries) harried assistants informed the General that no repairs were available to look after its misfortunes for two or three days. A stony silence greeted this information. But it may now be recorded that the General thereupon made a personal telephone call to the Pentagon. In a matter of minutes a repairman with full repair kit arrived. It is believed that this is the only known instance of General Cramer's reliance on the doctrine of RHPJ.

Thummin sketches require that certain vital statistics be mentioned. Let it be recorded that General Cramer was born Myron Earl Cramer November 6, 1881 of New England stock in Portland, Connecticut, then and now a sleepy village off the beaten track. In his early youth General Cramer moved to Oneida, New York, where his boyhood days were spent. As befitted a New Englander, he attended Wesleyan University,
from which he took his A.B. degree in 1901. He then went on to Harvard Law School, receiving his LL.B. degree in 1902. The lure of the big city called and he practiced in New York for three years, serving part of the time on the legal staff of a large insurance company. The starting salary for young attorneys in the New York firm (three days was $500.00 a month. General Cramer's salary with the insurance company was paid on a per diem basis and worked out to $50.00 a month. The General retails with a smile that he was the highest paid member of his class—except for one whose father set him up in the business of serving on the board of directors of his various enterprises.

After three years in New York the General shook free his eastern ties and removed to Tacoma, Washington, where he engaged in general practice. In January 1911 he joined the Washington State National Guard as a private and was commissioned a second lieutenant of cavalry in November of that year. While serving as deputy prosecuting attorney for Pierce county Washington in 1916 he was called into active service on Mexican border duty. This service culminated, General Cramer returned to the prosecuting attorney's office for a brief period before the Guard was again federalized for World War I. First stationed at Camp Greene, N.C., he went overseas in January 1918 as a captain with the 1st Division. While overseas he attended the General Staff College at Langres, France. Upon his graduation in June 1918 he rejoined the 1st Division as Assistant Chief of Staff. Awarded the Ordre de l'Étoile Noire for his World War service, General Cramer returned to the United States in July 1919 with the rank of Lieutenant Colonel.

He resumed his practice in Tacoma for about a year but withdrew from it in July 1920 to accept a commission as a major to the Judge Advocate General's Department of the Regular Army. As a member of the Regular Army he first served as Judge Advocate of the 3rd and later the 4th Division at Fort Lewis, Washington. Other assignments took him to West Point as assistant professor of military law at the United States Military Academy and...

(Continued on Page 72)
THE RULE AGAINST Ex Post Facto

LAWS AND THE PROSECUTION OF THE AXIS WAR CRIMINALS

By Hans Kelsen

THE original meaning of the term "ex post facto law," as used in the Constitution of the United States was "retroactive law" and not, as it is interpreted nowadays, only "retroactive criminal law." Blackstone speaking of "unreasonable method" of lawmaking refers to "laws ex post facto, when after an action (indifferent in itself) is committed, the legislature then for the first time declares it to have been a crime, and inflicts a punishment upon the person who has committed it." This is a retroactive criminal law, but Blackstone refers to it only as an example for he concludes: "All laws should be, therefore, made to commence in future and be notified before their commencement, which is implied in the term 'prescribed.'

This is quite understandable. For an unrestricted constitutional prohibition of retroactive legislation would lead to undesirable consequences. The rule against retroactive legislation, though a basic principle of jurisprudence, was never recognized without the admission of important exceptions. It is worth to note that in England the rule on ex post facto law, though in principle accepted by the common law, was never interpreted as a limitation of the sovereign legislative power of Parliament. The opinion prevails that Parliament always can pass a retroactive statute.

II

The rule first established by Roman jurisprudence has been taken over by the natural law doctrine. Here it has been deduced from the nature of law as a rule prescribing future conduct of man. To regulate human conduct which has taken place in the past is impossible. If a retroactive law means a law prescribing a certain conduct of man for the past, the rule against retroactive legislation expresses a logical necessity.

This was probably the idea underlying the natural law doctrine of the inadmissibility of ex post facto laws. To understand it, we must take into regard that according to the natural law doctrine the rule of law is a norm prescribing directly the desirable conduct of the subjects, regardless of sanctions attached to the contrary conduct. Sanctions are not essential to the law since its rules are derivable from nature or reason and evident to man as being endowed with reason. A rule stating that men ought to behave in a certain way is meaningless if it refers to the past and not to the future.

In opposition to the natural law doctrine, legal positivism considers sanctions as an essential element of the law, and consequently formulates the rule of law as a norm by which sanctions are prescribed to be executed by specific organs of the community against subjects whose conduct is undesirable. It is by attaching sanctions to undesirable conduct that the latter is made illegal. It is by prescribing sanctions so he executed by organs against subjects that the conduct of the subjects is regulated. It is an indirect regulation of the conduct of the subjects. Hence the rule of law as formulated by the natural law doctrine refers only to one individual; to the subject whose legal conduct is prescribed by the rule. This rule of law cannot be retroactive; but the rule of law providing sanction can; not, of course, with respect to the act of the organ, the execution of the sanction; this action can be prescribed only for the future; but with respect to the conduct of the subject which is the condition of the sanction. A rule of law can attach a sanction to be executed in the future, that is to say after the rule has been enacted, to human conduct which has been performed in the past, that is to say before the rule has been enacted. Such retroactivity is legally possible, but may not be morally or politically desirable. The postulate not to enact retroactive laws cannot be derived from the nature of law in the sense of legal positivism, as it can be derived from the nature of law in the sense of the natural law doctrine. Within the system of legal positivism the rule against retroactive legislation is not an essential principle as the corresponding rule of the natural law doctrine is, expressing a logical
Retroactive laws are held to be unjust because it hurts our feelings of justice to inflict upon an individual a sanction which he did not foresee, since it was not yet attached to his conduct, and consequently this conduct was not yet illegal, at the moment he committed the action or omission for which he is subjected to the sanc-

tion. It is, however, not against our feeling of justice to refrain from applying a law which has been repealed by another law, as is the case of an act which the repealed law attaches a sanction. If the law by which the previous law is repealed refers to cases which occur prior to the enactment of the repealing law, the latter is retroactive. Since it is advantageous to the sub-

ject, it is not considered to be unjust. On the contrary, it is considered to be unjust if such a law is not retroac-
tive. The same is true with respect to a retroactive law by which the sanction provided by a previous law is soft-

dened. Hence it is not exactly the retroactivity of the law which is felt objectionable. It is the fact that the indi-

vidual had no chance to avoid a sanction or a more severe sanction provided by a subsequent law. If he had known that his conduct would entail a sanction, or a more severe sanction than that he had to expect at the moment his conduct took place, he would perhaps have conducted himself in another way; he would perhaps have chosen a conduct by which the sanction was avoided.

The idea underlying this principle of justice is prob-
ably the doctrine of contract in a somewhat modified form: the law is binding upon an individual and there-
fore, applicable to him only if it is recognized, and if not recognized, at least known by him. It is very significant that Blackstone deals with ex post facto laws in connec-
tion with the problem of recognition of laws. He says: "A Law is likewise a rule prescribed" because a bare resolu-
tion confined in the breast of the legislator without mani-
festation itself by some external sign, can never be properly 
a law. It is requisite that the resolution be notified to the people who are to observe it. But the manner in which this notification is made is a matter of very great difference . . . whatever way is made use of, it is incum-

bent on the promulgator to do it in the most public and propitious manner; not like Caligula, who (according to Dio Cassius) wrote his laws in a very small character and hung them upon high pillars, the more effectively to en-

sure the people." There follows the passage concern-
ing ex post facto legislation. The reason why it is called an "unreasonable method" is: "Here it is impossible that the party could foresee that the action, innocent when it was done, should be afterwards converted to guilt by a subsequent law; he had, therefore, no cause to abstain from it." The principle of justice which is the basis of the rule against retroactive legislation is; that the law must be known in order to be applicable. This principle is not without a countervailing consideration, not less generally recognized than the former: that ignorance of law is no excuse. And it is significant again that Blackstone refers to this rule immediately after having expounded the rule against ex post facto laws. He says: "But when this rule [that is, the rule which the repealed law attaches a sanction] is permitted, or prescribed, it is then the subject's business to be thoroughly acquainted therewith; for if ignorance of what he might know were admitted as a legitimate excuse, the laws would be of no effect, but might always be studied with impunity." Since it is practically impossible to maintain the principle that the law has to be known by an individual in order to be applicable to him, the principle must be modified. Not actual knowledge of a punishment and its retroactivity is required. Consequently, the law must exist, and if pos-
sible be notified, at the moment the conduct takes place to which the law attaches a sanction. This is the point 
where the question of retroactivity comes in. The rule against retroactive legislation is the result of the necessary restriction of the rule against the application of laws unknown to the subject.

If two principles of law are not compatible with each other, the one must be restricted by the other. The rela-
tionship between the rule against the application of un-
known law and the rule that ignorance of the law is no 
excuse is typical. The former rule, however, is in conflict not only with the latter. If it is unjust not to attach to a certain act a sanction, if, for instance, a legislator has omitted to provide punishment for the theft of electricity because he did not foresee the possibility of such an act, it is certainly just to enact a law providing such a sanc-
tion, even with retroactive force, especially if the act or its omission is generally considered as a violation of morality or another higher rule, although not illegal. If a retroactive law, which attaches a sanction to a conduct generally considered to be immoral or in conflict with another norm superior to the law, is rejected because of its retroactive force, the rule against the application of unknown law is recognized as more important than the principle whose violation is made illegal. But there exists a clear difference between a retroactive law by which an act "idifferent" in itself or "innocent" when it was done, is connected with a punishment, and a retroactive law by which an act which was immoral or otherwise in conflict with a higher norm is made illegal.

Even in its restricted form as prohibition of retroactive law, the rule against the application of unknown law is not without exceptions. The rule is effective only with respect to legislation, not against the creation of law by custom or judicial decisions. Any rule of customary law is retroactive in the first case in which it is applied as a rule of law. Any rule of law created by a precedent is retroactive in the case in which it is first applied. The doctrine that custom is not a creation of law but merely evidence of a pre-existing law is the same fiction as the doctrine that tries to hide the retroactive character of a precedent by presenting the judicial decision as an inter-

pretation rather than a creation of law. A law may be retroactive not only by providing sanc-
tions to be inflicted upon subjects on behalf of actions performed by them before the law has been enacted. A law may be retroactive by abolishing or changing rights and freedoms acquired before the law has been enacted. In this sense any law is retroactive since it changes a legal situation established under a previous law. If the concept of retroactive law is taken in its broad sense, the rule against retroactive law prevents any change of the law. This rule has an extremely conservative character. Without restricting the scope of this rule, no reform is possible, especially in the field of civil and adminis
law. The protection of vested rights, the exclusion of expropriation laws, has frequently been based on the rule against retroactive legislation. A law by which vested rights are abolished is certainly a retroactive law. But if such law is considered to be unjust, it is not because of its retroactivity; it is unjust from the point of view of the natural law doctrine that rights, especially property rights, are prior to the law of the State, and that the law, by its very nature, has to protect the rights. It is from the nature of law that the illegality of a statute is derived that abolishes vested rights. It is, therefore, quite justifiable to confine the rule against \textit{ex post facto} laws to criminal law which operates to the detriment of the accused person. It is not from the nature of law that the illegality of a statute is derived that abolishes vested rights, if such protection is desired, on another principle, as stipulated expressly in the Constitution (such as the contract clause in the Constitution of the United States) or advocated by the natural law doctrine.

VI

The result of the preceding analysis is that the rule against \textit{ex post facto} legislation must be interpreted as restrictively as possible. This we have to bear in mind in the following examination of the rule the rule in question may play in the prosecution of Axis war criminals and especially German war criminals.

The main crimes for which persons belonging to the European Axis powers shall be prosecuted, according to the Agreement signed on August 8, 1945 by the governments of the United Kingdom, the United States of America, the Soviet Union and the French Republic, are:

1. War Crimes in the narrowest sense of the term, that is to say, violations of the rules of warfare.
2. Crimes against peace, that is to say, resort to force (launching of war of aggression) in violation of the Briand-Kellogg Pact or other treaties prohibiting resort to force.
3. Crimes against humanity, that is to say, certain atrocities including persecutions on political, racial or religious grounds, which do not constitute individual criminal responsibility, they are certain open violations of the principles of morality generally recognized by the public opinion of the world, that subsequent international agreements providing individual punishment for these violations of International Law were certainly not intended to have that subsequent international law to the detriment of the accused is considered to be objectionable, is the fact that the action to which the subsequent law attaches a punishment was at the time it was performed "indifferent" or "innocent," as Blackstone says. It may be doubtful whether this means morally or legally indifferent or innocent. But even if it only means that the action was not "illegal," the rule against \textit{ex post facto} laws is not applicable to the prosecution of illegal resort to force. For, the action was illegal at the moment it was performed, because it was a violation of International Law. The subsequent treaty does not make a legal action illegal \textit{ex post facto}. It only adds to the collective responsibility for an illegal action established by pre-existing International Law, individual responsibility of the perpetrators.

According to Blackstone, it is not only required that the action be legal at the moment of its commission, but also that the punishment subsequently attached to the action could not be foreseen. Only if the action is not illegal when it is done, it cannot be foreseen that its evaluation will change so radically that punishment will be attached to it. But at the time the Briand-Kellogg Pact and certain non-aggression Pacts were violated by the Axis powers, the conviction that an aggressive war is a crime was so generally recognized by the public opinion of the world, that subsequent international agreements providing individual punishment for these violations of International Law were certainly not unforeseeable; and this is the more as the Treaty of Versailles had already established a precedent by authorizing an international court to punish William the Second "for a supreme offense against international morality and the sanctity of Treaties".

If it is correct, as it has been shown above, that the interpretation of the rule against \textit{ex post facto} laws must be interpreted as restrictively as possible, its application to the prosecution for illegal resort to force is certainly excluded.

The atrocities for which persons belonging to the Axis powers, and especially the Germans, shall be prosecuted are almost all ordinary crimes according to the municipal law of the persons to be accused, valid at the moment they were committed. In respect of these crimes the main problem is not the application of the rule against \textit{ex post facto} laws but the jurisdiction of the International Tribunal. This problem is solved by an international treaty conferring the jurisdiction for the prosecution of these crimes to the International Tribunal.
crally recognized by civilized peoples and hence were, at least, not innocent or indifferent when they were committed. Besides, in all cases where the rule against ex post facto laws comes into consideration in the prosecution of war criminals, we must bear in mind that this rule is to be respected as a principle of justice and that, as pointed out, this principle is frequently in competition with another principle of justice, so that the one must be restricted by the other. It stands to reason that the principle which is less important has to give way to the principle which is more important. There can be little doubt that, according to the public opinion of the civilized world, it is more important to bring the war criminals to justice than to respect, in their trial, the rule against retroactive criminal laws, which has merely a relative value and consequently, was never unreservedly recognized.

VII

The above-mentioned international treaty by which the legal basis for the prosecution of the Axis war criminals is to be established, should be concluded by the States which intend to prosecute the war criminals, with the States whose subjects shall be prosecuted. A treaty concluded only by the victorious United Nations or some of them without the participation of the vanquished Axis powers is not "international," in relation to the latter. The rules established by such a treaty to be applied to the prosecution of subjects of the Axis powers are—in relation to the latter—equivalent to Municipal law of the former. The Treaty of Versailles which provided for the prosecution of William the Second and other German war criminals, was signed and ratified by Germany. However, the actual international situation with respect to Germany is totally different from that which existed after the first World War. Germany's unconditional surrender, together with the abolishment of its last national government, has put an end to its existence as a sovereign State. By the Declaration made in Berlin on June 5, 1945, the four occupant Powers have established their joint sovereignty over the German territory and its population. In their capacity as sovereigns over the territory occupied by them they are the legitimate successors of the German State. By the Declaration made in Berlin on June 5, 1945, the four occupant Powers have established their joint sovereignty over the German territory and its population. In their capacity as sovereigns over the territory occupied by them they are the legitimate successors of the German State. An international treaty, to which the four occupant Powers in their capacity as sovereigns over the German territory and its population are the legitimate successors of the German State, and the Control Council instituted by the Declaration of Berlin is the legitimate successor of the German State, and the Control Council instituted by the Declaration of Berlin is the legitimate successor of the German State. An international treaty, to which the four occupant Powers in their capacity as sovereigns over the occupied territory and its population are contracting parties, is equivalent to a treaty concluded with Germany.

To establish the legal basis for the prosecution of the German war criminals, no international treaty is necessary. General International Law obligates the States to punish their own war criminals. Since the four occupant Powers in their capacity as sovereigns over the German territory and its population are the legitimate successors of the German State, they have an unlimited legislative, judicial and administrative jurisdiction over German territory and its population. They are entitled to carry out Germany's obligation with respect to German war criminals. For this purpose they may institute a special court and lay down the principles to be applied in the trials.

In relation to the German war criminals, the agreement for the prosecution and punishment of the major war criminals of the European Axis signed on August 8, 1945 by the four occupant Powers, may also be interpreted as a legislative act of the occupant Powers, issued by them in their capacity as sovereigns over the German territory and its population. If this interpretation is accepted, any objection against the agreement resulting from the fact that Germany is not a contracting party may be refuted. For this purpose it is advisable that the occupant Powers make a declaration to the effect that they consider themselves as exercising joint sovereignty over the German territory and its population on the basis of complete dehellenization of Germany and that consequently, the military government established by them is to be considered as a legitimate successor to the last German government.

VIII

Be Article 4 of the German Constitution of August 11, 1919, still valid under the Nazi régime, the generally recognized rules of International Law are declared to be binding parts of German Federal Law. One of these rules is the one which obligates the States to respect the treaties concluded by them, usually formulated as the rule pacta sunt servanda. Violation of a treaty, especially violation of the Briand-Kellogg Pact to which Germany was a contracting party and of the non-aggression Pacts, Germany has concluded with other States, may therefore be considered not only as a violation of International Law, but also of German municipal law. According to Article 59 of the Constitution the Reichstag had the power of impeaching the Reich President, the Reich Chancellor and the Reich Ministers before the Staatsgerichtshof for having violated the law. This provision, however, has ceased to be valid after the Nazi régime has been established. Hence, resort to force in disregard of an international obligation was a violation of German law still under the Nazi régime; but no sanction was provided constituting the individual responsibility of the members of government guilty of such violation. Such individual responsibility may be established by a legislative act of the occupant Powers such as the Agreement of August 9, 1945, providing adequate punishment for violation of that part of municipal law which is formed by the generally recognized rules of International Law. Even if the act refers only to treaty violations committed by the Nazi government, it does not fall under the rule against retroactive criminal laws, because it attaches sanctions to acts which were, at the time they werecommitted, illegal not only under international but also under the municipal law of the accused persons.

The rule against retroactive criminal legislation has been incorporated in the German Criminal Code of May 15, 1871, in paragraph 2, which ran as follows:

"For no act may punishment be imposed unless such punishment is prescribed by statute before the act has been committed."

An almost identical provision has been inserted as Article 116 into that part of the Weimar Constitution which was titled "Fundamental Rights of the German." This part of the Weimar Constitution and with it the rule against retroactive criminal legislation as a constitutional principle has been abolished by the Nazi régime. Paragraph 2 of the Criminal Code has been
CLOSING A J.A. Office

By Lt. Col. Carlton G. Schenkens, JAGD

The day is coming when many Judge Advocates will be faced with the duty of closing their JA sections as part of the dismantling or inactivation of their general court-martial authority. The HQ to which the writer is assigned has had some experience along these lines and the following suggestions are passed along for what they are worth.

As soon as a "closing date" is announced, the JA should be advised thereof and furnished with a complete list of all general court cases which have not received final JAG approval. This gives the JAGO an opportunity to expedite examination and disposition of your cases, which in turn, gives you an opportunity to make any corrections or explanations, before you move on to another assignment. (In one of our closing jurisdictions, the submission of such a list resulted in the discovery of a record lost in transit—a record that might have remained lost forever if this final clearance has not been submitted.)

Having dispatched the aforementioned letter, the next step is to place your internal affairs in good order. General court cases that have been tried should be processed immediately and forwarded without delay to TJAG. (Such cases should be included on the list discussed in the preceding paragraph.) Any JCM charges which cannot be completely disposed of before your closing date should be forwarded to the CG who will exercise JCM authority over the accused after that date.

Check with your reviewing authority as to any retractions or suspensions that should be ordered prior to closing. Check with your stockade to make sure that it has copies of all orders that it may need. Clear your records of any books, classified documents, and other property that may be charged to your section.

The last big job is the preparation of files for storage. The purpose of storing records is so that they will be available if needed. It is therefore important that they be prepared so that they serve this purpose. Dumping papers in a box and nailing on a lid does not help much. First, the files should be stripped of all unnecessary papers—duplicates (charge sheets, GCMOs, SCMOs, reviews, investigation reports, etc.), old records authorized to be destroyed, etc. It is surprising how much space can be saved by such "house-cleaning." This is not a routine job but should be closely supervised by the JA or an assistant. War Department GOs, bulletins, and circulars, and similar publications should be turned into HQ AG for disposition. If any duplicate copies of stenographic transcripts of trials are found, they should be forwarded to TJAG. If such duplicate transcripts are ever needed in the future, they will be sought in JAGO files and not in storage warehouses. Records that are to be retained must be arranged, boxed, and labeled so that they can be found when needed. (See AR 345-10, par 28 Jun 44.) We found it desirable to arrange these records as follows:

1. A single alphabetical sequence of all "201" files regardless of court and regardless of year tried.
2. A complete set of GCMOs and SCMOs arranged by issuing HQ and then by numerical sequence.
3. A miscellaneous JA file containing the usual accumulation of odd papers that may have some future reference value. On the final closing day, a report should be submitted to TJAG, similar to the JA annual report required by AR 345-5, par 28 c, covering only the fiscal year to date of closing. The CG who will assume JCM jurisdiction over any case disposed of after that date must be informed of any such cases and should be furnished the complete file so that proper final action may be taken thereon.

When you have finished the job, you can put on your hat and go home (maybe?) with a feeling of a job well done.
THAT RULES of conduct govern the relations between nations in both peace and war is universally recognized. "These rules, commonly referred to as International Law, have evolved out of customs, agreements, and the experiences of nations brought on by a realization that their relations inter se, if not their existence, must depend upon some generally accepted principles of right and justice" (Hackworth, Digest of International Law, Chapter 1). No state is at liberty to "declare that it will in the future no longer submit to a certain recognized rule of the Law of Nations. The body of the rules of this law can be altered by common consent only, not by a unilateral declaration on the part of one state" (Oppenheim's International Law, 6th Ed., Lauterpacht, p. 18).

In modern times so many treaties have been broken and so many of the rules ignored that people have become profoundly skeptical as to the value, the efficiency and even the existence of International Law. But as Sir Frederick Pollock pointed out "Law does not cease to exist because it is broken, or even because for a time it may be broken on a large scale; neither does the escape of some criminals abolish penal justice" (Political Aspects of Int. Law, 1928, p. 2).

Our courts have on many occasions ruled that International Law is a part of the body of the law of the land in and to which are to be recognized and enforced (The Panama Hat, 173 U.S. 677, 708; MacLeod v. U.S., 229 U.S. 816, 134; U.S. v. Curtis Wright Export Corporation, 299 U.S. 341, 348). Rules governing the conduct of war are but a branch of that law (Brown v. United States, 6 Cranch, U.S. 150, 149).

Recently the Supreme Court of the United States said, "From the very beginning of its history this Court has recognized and applied the law of war as including that part of the Law of Nations which prescribes, for the conduct of war, the status, rights and duties of enemy nations, as well as enemy individuals" (Ex Parte Quirin, 299 U.S. 46; 1945). Germany and Japan, while recognizing the existence of such law, adhered to it, only when, generally speaking, it served their own purpose (Wheaton's International Law, 7th Edition, A. B. Keath, Part 5, Chapter 2).

The German view is best expressed in Chancellor von Belsheim-Hollweg's declaration of August 4, 1914: He said, "Necessity knows no law. Our troops have occupied Luxembourg, and, perhaps, have already entered Belgian territory. Gentlemen, that is a breach of international law. . . . We have been obliged to refuse to pay attention to the reasonable protests of Belgium and Luxembourg. The wrong— I speak openly—the wrong we are thereby committing we will try to make good as soon as our military aims have been attained. He who is accused, as we were, of fighting for his own, can only consider how he is to back his way through."

The principles of International Law may be found in the accepted customs, treaties, conventions, the works of writers (Gentenis, Vattel, Gentili, Grotius, Moore, Oppenheim, Wheaton, Kent, Hyde, et al.), court decisions, opinions, pronouncements of foreign offices and so forth. "International Law, is the law that governs between states," said Mr. Justice Cardozo in New Jersey v. Delaware, 291 U.S. 361, 385, "at its times, like the common law within states, a twilight existence during which it is hardly distinguishable from morality or justice, till at length the imprint of a court attests its purely legal status."

But for the greater bulk of International Law relates to peace time activities. Much of it is unwritten and, like the common law of England, has evolved from usage and universal acceptance. The same is true with respect to the Laws of War. Such laws accord substantially with the natural laws of morality and fairness. We do not have to examine some mouthed record or view with historical speculation the law of common decency and honor in order to determine what the rights and duties of the belligerents are. We turn therefore to a brief discussion of the Law of Nations insofar as it relates to the Rules of Warfare, since it is the breach of that law, written or unwritten, that constitutes a "War Crime."

THE HAGUE AND GENEVA CONVENTIONS: In the middle of the 19th Century, the first in the series of conventions was called for the avowed purpose of lessening the suffering and hardships of war and to establish rules for the conduct of war. There had been other meetings of Powers prior to this time convened in an attempt to formulate rules of international conduct, which were to govern both peace and war-time activities. For example, there was the Vienna Congress of 1814 which included in its provisions the Declaration of the allies for the protection of prisoners of war, and the Declaration of Paris in 1856 which laid down principles relating to slave trade and free navigation on international rivers. There was the Congress of Aix-la-Chapelle in 1818 which added ministers to the class of diplomatic agents, the Treaty of 1851 which provided for the arbitration of Belgian and Dutch disputes, the Declaration of St. Petersburg in 1874 which laid down principles relating to blockade, contraband, neutral ships and punctilios. In 1864 the first Geneva (Red Cross) Convention was called for the specific purpose of ameliorating the condition of wounded soldiers in armis on the field. It was followed by the Declaration of St. Petersburg in 1868 which related to the use of certain types of projectiles, and in turn by the Hague Conventions of 1899 and 1907. There were other meetings: the Geneva Conventions of 1899 and 1907, the Brussels Conference of 1874, the Washington Conference of 1922, but in the main the present-day rules respecting land warfare are contained in the two Hague Conventions.

Not all the nations were represented; not all concurred; some signed with reservations; others attached conditions. The extent to which the United States formally concurred is set forth in War Department
OBEDIENCE TO THE LAWS OF WAR:

The right to enact such legislation is vested in Congress by Article I, Section 8 of the Constitution which provides, that in addition to other remedies, punishment may be inflicted upon the conquered belligerents by the terms of the peace treaty and upon the individuals responsible for the wrongs by sentence to death or imprisonment (Hague Convention, 1907, Art. 22, Rules of Land Warfare, FM 27-10, Pars. 22-36). It is a basic principle that a state of war does not give the right to commit genocide, torture, and destroy (Winthrop, p. 788). Germany, despite lip service to the generally accepted rules (German Field Manual: Kriegsbrauch im Landkriege), continued to adhere to the necessities non habet legem doctrine. The same is true of Japan.

The nature of the remedy available in the event of a violation of the laws of war raises most difficult questions. The technicalities and niceties of the law have been argued pro and con (Glueck, War Criminals, etc., Knoop, 1944, p. 70-121). International Law itself provides, that in addition to other remedies, punishment may be inflicted upon the conquered belligerents by the terms of the peace treaty and upon the individuals responsible for the wrongs by sentence to death or imprisonment (Hague Convention, 1907, Art. 5; FM 27-10, Pars. 345-357).

Whether the waging of an aggressive war constitutes a wrong, recognized as such by International Law, raises an interesting controversial question as does also the proposal to try the offenders before an international court. Much has recently been written on this subject matter. By far the largest number of offenses involve violations of the Rules of Land, Naval and Air Warfare for which the wrongdoer must stand trial before a United States Military Commission. It is with such crimes and their punishment that this article is mainly concerned.

NAVAL AND AIR WARFARE: The Hague Conventions of 1899 and 1907 sought to bring naval warfare in line with the Rules of Land Warfare. Regulations relating to hospital ships, naval bombardment, the shipwrecked and wounded, submarine mines, and many others were agreed upon, all of which rules Germany and Japan have violated in this and earlier wars.

In 1925, rules and regulations pertaining to air warfare were prepared, but they were never ratified by the nations of the world. There are, nevertheless, certain recognized restrictions on air warfare (Spaight, Air Power and War Rights, 1933). The aerial gunner who directs fire on non-combatants or on a disabled flyer and the submarine commander who directs fire on the shipwrecked both violate the laws of war. Both condemned by international law as they constitute crimes against the law of war, applicable to all belligerents in time of war.

Compliance with International Law is a reciprocal obligation on both sides. Germany has consistently failed to observe the laws of war. It has used poison gas, subjected civilians to aerial bombardment and other acts of devastation. Germany's actions are in violation of the Hague Conventions of 1899 and 1907, the London Naval Treaty of 1906, and the German Air Code of 1935. Germany's conduct in violation of international law is well documented in a number of texts, including the report of the International Military Tribunal at Nuremberg, issued on November 10, 1945. Germany's failure to comply with international law has been recognized by the United Nations, which has imposed economic sanctions against Germany as a means of forcing it to comply with international law.

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The Judge Advocate Journal

THE SUBSTANTIVE LAWS OF WAR:


"In earlier times the unarmed inhabitants of an invaded country were liable to be treated very much like the armed combatants; practices varied according as the commanders are chivalrous of ferocious and cruel. Mitigations were repeatedly urged by counsels and writers; thus it was urged that eclesiastics, merchants, farmers, shepherds and all peaceful inhabitants should not be attacked; and that women and children of every inoffensive nation should not be subject to violence. . . . Thus a distinction grew up between armed forces and non-combatants; and . . . it became a generally recognized rule that the civilian sections of a country, if they did not participate in the fighting were to be exempt from deliberate attack." (Wheaton, supra, p. 170).

As early as 1821, King Gustavus Adolphus provided (Art. 97): "neither shall any tyrant or old man, aged people, men or women, maides or children, unless they first take arms against them, under paine of punishment at the discretion of the Judges." A similar provision was contained in the English Military Code (Articles of Charles I, Art. 5, Sec. V.).

Our Supreme Court in Ex Parte Quirin 317, U.S. 1, 12 said: "By universal agreement and practice, the law of war draws a distinction between the armed forces and the peaceful population of belligerent nations and so between those who are lawful and unlawful combatants."

Paragraph 8 of the Rules of Land Warfare (FM 27-10, p. 4) provides: "The enemy population is divided in war into two general classes, known as the armed forces and the peaceful population. Members of the latter are subject only to the rights, duties, and responsibilities, and no person can belong to both classes at one and the same time."

"It is now universally recognized that hostilities are restricted to the armed forces of belligerents. Habitants who refrain from acts of hostilities and pursue their ordinary vocations must be distinguished from the armed forces of the belligerent; must be treated leniently; must not be injured in their lives or liberty, except for cause and after due trial; and must not, as a rule, be deprived of their private property" (italics supplied).

"Lawful combatants are subject to capture and detention as prisoners of war by opposing military forces. Unlawful combatants are likewise subject to capture and detention, but in addition they are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful" (Ex Parte Quirin, supra, p. 12).

There are two recognized instances which permit the status of inhabitants to be changed from that of non-combatant to combatant. First a volunteer corps may be used against a belligerent; members of which wear distinctive emblems, carry arms openly, conduct operations in accordance with the laws and customs of war and are duly commanded. The Hague Convention 1907, Art. 1; FM 27-10, p. 4). The second recognized role relates to inhabitants of a territory who spontaneously take up arms to forcefully resist the enemy's approach (FM 27-10, p. 4). The Law of Nations recognizes that an entire community may change its character from non-combatant to combatant without bringing upon itself punishment as lawless banditti. Such transformation is known as a levee en masse. The same force may be applied against a levee en masse or a volunteer corps as may be used against any other military unit and conversely each of these groups is entitled to the protection of the laws relating to belligerents.

Much confusion exists as to the status of so-called guerrillas. Wheaton at page 175 says: "There is no rule of international law prohibiting guerrilla warfare. Guerrilla fighters must be regarded by the enemy as legitimate combatants if they fulfill the four conditions laid down in the first article of the Convention quoted above," i.e., wear distinctive emblems, carry arms openly, etc. et al. Of course a civilian sniper, or a group of civilians who do not comply with the four requirements above set forth, are not by international law regarded as legitimate combatants.

In earlier times the term guerrilla was applied to lawless bandits who were engaged in killing, robbing, and plundering for personal profit or revenge. When captured they were treated as outlaws and shot or imprisoned with or without trial (Winthrop, p. 7834). During the...
2. The Nature of the Violence Which May Be Used Against Combatants.

The Hague Conventions specifically forbid combatants to kill treacherously; to kill or wound an enemy, who, unarmed, surrenders; to employ arms, projectiles or material of a nature to cause superfluous injury; to use poison or poison weapons; to use expanding or fragmenting bullets; to engage in any kind of treachery such as to pretend surrender and then attack, to approach under a flag of truce and then commit a hostile act or to refuse to grant quarter (mercy) to those who offer themselves as prisoners of war (Rules of Land Warfare FM 27-10, para. 29-44).

3. Care of the Sick and Wounded.

"It has long been an established usage of war that sick or wounded combatants should not be ill-treated by the enemy" (Wheaton, p. 489).

A number of rules have been laid down by the Hague and Geneva Conventions, many merely declaratory of the customary law, respecting the treatment of the sick and wounded; the collection of the injured on the battlefield; the protection afforded persons engaged in collecting and treating the sick; the exchange of injured personnel and information between them; the wearing of brassards (armlets); the neutralization of medical installations, and so forth (Rules of Land Warfare, FM 27-10, p. 47-50). It is also provided that the showing of the distinctive Red Cross emblem (which was formed by reversing the colors of the Swiss Flag) renders inadmissible hospitals, ambulances, physicians, medical personnel and supplies and sanitary formations (FM 27-10, p. 50-56).

4. Prisoners of War.

"According to the law of war, as still practiced by savage nations ... prisoners taken in war are put to death. Among the more polished nations of antiquity, this practice gradually gave way to that of making slaves of them. For this, again, was substituted that of ransom, which continued through the feudal wars of the Middle Ages, when the practice proved a source of enrichment to doughty warriors. Those who were not ransomed were frequently put to death. Whatever mitigations were introduced were due to the influence of chivalry, the Church, and jurisprudence." (Wheaton, p. 175-6.)

Today prisoners of war must be treated humanely. They are in the power of the hostile government and not in that of the individuals or corps capturing them. With certain exceptions all of their personal belongings remain their own. They may be confined except as an indispensable measure of safety. They "shall be treated as regards food, quarters, clothing, on the same footing as the troops of the government which has captured them." They are subject to "the laws, regulations, and orders in force in the Army of the State into whose hands they have fallen." All must be protected against violence, insults and public curiosity and are "entitled to have their persons and their honor respected" (Rules of Land Warfare, FM 27-10, Chap. 4; Wheaton, p. 177-180; Garner, Int. Law and the World War, par. 383-384; Hyde, Int. Law, par. 670; Phillipson, Int. Law and the Great War, par. 289).

At the end of the last war one Captain Emil Muller was charged before the Leipzig Court, among other things, with inflicting savage cruelty on prisoners of war. He was found guilty on sixteen specifications and sentenced to six months imprisonment. The German court said, "There has been an accumulation of offenses which show an almost habitual hatred and contemptuousness, and even a frankly brutal treatment of prisoners entrusted to his care. His conduct has sometimes been unworthy of a human being." But, continued the Court, "It must be emphasized that the accused has not acted dishonestly: that is to say, his honor both as a citizen and as an officer remains unimpaired" (16 Am. Int. Law, p. 574).

In addition to tacitly condoning the mistreatment of prisoners of war, in recent years the taking of prisoners of war has been made a reality. The Geneva Convention of 1929 states that prisoners of war may be put to death if they are dangerous to the captors. (Kriegsbrauch in Landkriege, par. 16; Bluntschli, Das Moderne Volkerrecht, par. 389.) It is a known fact that a number of American soldiers who fell into enemy hands were by them put to death. Winthrop, who fifty years ago condemned such practice, said (p. 791), "... the status of war justifies no violence against a prisoner of war as such, and subjects him to no penal consequence of the mere fact that he is an enemy. For a commander to disembarrass his army of the presence and charge of prisoners of war by taking their lives would be a barbarity which would be denounced by all civilized nations. Where a captive entitled to be treated as a prisoner of war is put to death, or where unlawful, unreasonably harsh, or cruel, treatment of prisoners is practiced or permitted by one belligerent, the other may, as far as legally permissible, retaliate; and any individual officer resorting to or taking part in such act or treatment is guilty of a grave violation of the laws of war, for which, upon capture, he may be made criminally answerable" (Italy supplied).

"It is now recognized that captivity is neither a punishment nor an act of vengeance, but merely a temporary detention which is devoid of all penal character." Or, as Lieber states it, "a prisoner of war is no convict; his imprisonment is a simple war measure." (Winthrop, p. 788.)

5. Seizure and Destruction of Enemy Property.

"The object of war is to bring about the complete submission of the enemy as soon as possible by means of regulated violence and terror. The对象 of war is to bring about the complete submission of the enemy as soon as possible by means of regulated violence and terror. The..." (Winthrop, p. 225.)

The Judge Advocate Journal

Page 16

Civil War they were styled bushwhackers, jayhawkers or guerrilla-marauders. Today the word guerrilla has taken on another meaning, although the guerrillas may again be regarded as lawless bands if they continue harassing attacks after all organized resistance of the main forces of the enemy has ceased (Oppenheim, Vol. II, par. 60; Wheaton, p. 174).
private, and/or the destruction of property, public or private, is authorized if demanded by the necessities of war (FM 27-10, par. 318-34). Also authorized is the "obstruction of ways and channels of traffic, travel, or communication; and the withholding of sustenance or means of life from the enemy" and the appropriation of whatever the enemy's country affords that is necessary for the sustenance and safety of the Army" (FM 27-10, par. 249).

True, the Hague Convention and Basic Field Manual 27-10 contain provisions to the effect that private property must be respected but read along with other provisions such property must be respected only if it is not necessary for the purposes of the invader for a legitimate military purpose (Par. 325). Private property may be seized if necessary "for the support or other benefit of the Army or of the occupant" (Par. 330) or it may be destroyed "if it is required by the exigencies of war" (Par. 335).

Wheaton expresses the general underlying principle relating to destruction of enemy property as follows (page 215): "The same general rule, which determines how far it is lawful to destroy the persons of enemies, will serve as a guide in judging how far it is lawful to ravage or lay waste their country. If this be necessary, in order to accomplish the just ends of war, it may be lawfully done, but not otherwise. When the exigencies of offense or defense demand that certain enemy property be destroyed or damaged, such destruction or damage is considered necessary by the law of war and therefore legitimate."

6. Occupation of Enemy Territory.

"Territory is considered occupied when it is actually placed under the authority of the hostile army" (FM 27-10, Par. 271).

"Invasion is not necessarily occupation, although it provides it and may frequently coincide with it. An invader may push rapidly through a large portion of enemy country without establishing that effective control which is essential to the status of occupation" (FM 27-10, par. 274).

"Military occupation in a foreign war, being based upon the fact of possession of enemy territory, necessarily implies that the sovereignty of the occupied territory is not extended by the occupying power. The occupation is essentially provisional" (FM 27-10, par. 275).

"Subjugation or conquest implies a transfer of sovereignty. Ordinarily, however, such transfer is effected by a treaty of peace" (FM 27-10, par. 275).

Thus we have three forms of occupation of enemy territory; first, invasion where no effective control has been established; second, occupation where effective control has been established without change of sovereignty; and third, conquest where a change of sovereignty has been effected and the municipal laws of the occupied country have been superseded or interrupted. "Invasion and subjugation are necessarily provisional" (FM 27-10, par. 275).

Military occupation gives to the occupying power the right to exercise control over the area which is usually done by the establishment of military government. The British and many continental writers usually refer to such control as martial law; but whatever it is called, the Rules of Land Warfare require that upon occupancy immediate steps be taken "to restore and innure, as far as possible, public order and safety respecting, unless absolutely prevented, the laws in force in the country" (FM 27-10, par. 292).

Local government may continue wholly or in part, depending on the will of the military commander (FM 27-10, par. 299). Existing laws may be suspended and new ones promulgated (FM 27-10, par. 298). As deemed advisable by the military commander, the local courts may continue to function (FM 27-10, pars. 285-286). The military occupant may regulate commerce, establish censorship, collect taxes, enforce obedience, command the services of the inhabitants, except that they should not be required to take part in military operations against their own country (FM 27-10, pars. 300-344; MacLeod vs. U.S., 229 U.S. 416). No general penalty, pecuniary or otherwise, may be inflicted on the population on account of the acts of individuals (FM 27-10, par. 343).

Persons may not be compelled to give information about the army of the deposed belligerent or its means of defense: "The same general rule, which determines how far it is lawful to destroy the persons of enemies, will serve as a guide in judging how far it is lawful to ravage or lay waste their country. If this be necessary, in order to accomplish the just ends of war, it may be lawfully done, but not otherwise. When the exigencies of offense or defense demand that certain enemy property be destroyed or damaged, such destruction or damage is considered necessary by the law of war and therefore legitimate."
the Hague. The practice is akin to that of brigandage and banditry, and is repugnant to all honourable men. International law does not sanction the abnegation of honour even in the severest warfare" (Wheaton, p. 262).

While there is much to be said for Wheaton's view, the fact remains that General Grant, commanding the Division of Mississippi, General Sullivan, commanding at Harpers Ferry, and General Rousseau, commanding in Alabama, all resorted to the seizure of hostages as a legitimate act of war (Winthrop, p. 797). While such practice is as indefensible as the using of enemy inhabi- 
tants as a target line, it nevertheless is still regarded as a recognized act of war, not punishable as a War Crime (FM 27-10, par. 359). Of course, mistreatment of hostages raises another question. The Rules of Land Warfare require that hostages be treated as prisoners of war (par. 359).

**THE ENFORCEMENT OF THE LAWS OF WAR:**

There are many other rules in addition to those herein above mentioned designed to regulate the conduct of belligerents. They relate to siege and bombardment, looting, pillaging, marauding, spring, espionage and treason, neutrality, safe conduct passes, safeguards, parole, army followers, requisitions, reprisals, retaliatory action, capitulations, truce and armistices. Insular or maritime warfare is concerned, there are rules relating to capture, prizes, privateering, ransom, submarine mines, merchandise, cargo, contraband, neutral ports, zones of hostilities, blockade, visit and search, navicrets and many others.

Practically all of these rules have been violated by Germany and Japan in the current and other wars; thus denoting the futility of seeking to regulate the violence of war. The kid-glove rules are seldom if ever scrupulously followed by both belligerents. At least those were the express sentiments of Prime Minister Churchill who expressed thoughts to try and punish War Criminals. Each of the above-named fields of law functions in a separate sphere —although at times overlapping. The jurisdiction of each is derived from a different source.

"Military law proper is that branch of the public law which is enacted or ordained for the government exclusively of the military state, and is operative equally in peace and in war" (Wheaton, p. 15). In substance, Military Law is the specific law governing the Army as a separate community. It is not inclusive of Martial Law, Military Government, or the Laws of War; all of which must be clarified for a better understanding of the basic concepts of jurisdiction to try and punish War Criminals. Each of the above-named fields of law functions in a separate sphere —although at times overlapping. The jurisdiction of each is derived from a different source.

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which is established and maintained by a belligerent by force of arms over occupied territory of the enemy and over the inhabitants thereof" (FM 27-10, par. 6).

"By military government is meant that dominion exercised in war by a belligerent power over territory of the enemy invaded and occupied by him over the inhabitants thereof. . . . The authority for military government is the fact of occupation. Not a mere temporary occupation of enemy's country on the march, but a settled, established one. Mere invasion, the mere presence of a hostile army in the country, is not sufficient. There must be full possession, a firm holding, a government de facto" (Winfthrop, p. 799).

Before the coming into being of such de facto govern­ment proclamations and edicts may be issued by the military commander to the inhabitants of the territory through which his armies pass. Such directives constit­ute rules of conduct for the time being and may be regarded as provisional military government, or martial law in enemy country as distinguished from martial law in domestic territory. Military government may exist if the territory continues to be held.

Military Government, or what some Continental writers refer to as Martial Law "... has been defined to be, the will of the commanding officer of an armed force, or of a geographical military department, expressed in time of war within the limits of his military jurisdic­tion, as necessity demands and prudent dictates, restrained or enlarged by the orders of his military chief or supreme executive rules. . . . The Duke of Wellington described it in the House of Lords as being "neither more or less than the will of the general who commands the army." . . . Though the martial law of a commander is not really law at all in the ordinary sense of the term, it does not on that account justify military oppression. Its stringency will, of course, depend on the particular circumstances of each case; for example, on the amount of danger to which the military forces under the com­mander are exposed, and, in occupied territory, on the conduct of the local inhabitants; but in every case it should be administered in accordance with the universally recognized fundamental principles of humanity and honour, fairness and justice" (Wheaton, p. 240). Those fundamental principles to which Wheaton refers are set forth in United States Army and Navy Manual of Mil­i­tary Government and Civil Affairs, FM 27-5, 22 De­cember 1943.

"By the term Laws of War is intended that branch of International Law which prescribes the rights and obli­gations of belligerents, or—more broadly—those princi­ples and usages which, in time of war, define the status and relations not only of enemies—whether or not in arms—but also of persons under military government or martial law and persons simply resident or being upon the theater of war, and which authorizes their trial and punishment when offenders" (italics supplied; Winthrop, p. 272). It is with this branch of law and the law of Military Government or what the British refer to as martial law in enemy territory that we are here mainly concerned.

"War Crimes" is a colloquial expression relating to those offenses which the Laws of War as a distinct canon of the Law of Nations prohibits and for which offenses trial and punishment is authorized. The number is naturally indefinite and all offenses are punishable by death (Wheaton, p. 242; FM 27-10, pars. 345-357).

In the United States war criminals are generally tried by a military commission. In some instances where courts-martial is specifically authorized, viz., whosever relieves, correspond, or aids the enemy (Article of War 81) and any person caught spying (Article of War 85). This, despite the general rule that only persons subject to Military Law are crimes by which the Laws of War 2). Persons subject to Military Law may of course also be tried by military commission or other military tribunals for offenses against the Laws of War (Article of War 15). Article of War 12 provides that general courts-martial shall have power to try "any person subject to military law for any crime or offense made punishable by these Articles and any other person who by the Law of War is subject to trial by military tribunals." Pursuant to this provision (Article of War 12) "War Criminals" may be tried by general courts-martial for any and all viola­tions of the Laws of War as well as for the offenses specifically referred to in Articles of War 81 and 82 (spying and aiding the enemy). The practice, however, has been to try violators of the Laws of War before mili­tary commissions (Winfthrop, p. 798).

THE MILITARY COMMISSION

THE HISTORY OF THE MILITARY COMMISSION: The Commission came to be recognized as a regular military tribunal about one hundred years ago. Such commissions were ordered by Generals Scott, Taylor and Wool during the Mexican War—their use having been authorized by War Department General Orders No. 20, 19 February 1847. The occasion was the fact that jurisdiction of courts-martial proper was re­stricted almost exclusively to military personnel and to the specific offenses enumerated in the Articles of War. Courts-martial jurisdiction did not extend to the crimi­nal acts of non-combatants in occupied territory nor did it extend to that class of crimes which today are generally referred to as "War Crimes." A separate War Court was necessary and is authorized as a proper agency of the constitutional power to wage war (Coleman vs. Ten­nessee, 97 U.S. 509; The Grapeshot, 9 Wallace U.S. 129), Such courts may have been called by any name (State ex rel. Kain vs. Hall, 6 Baxter, Tenn. 3); and, if by a name otherwise than "Court of General Officers" to try Major John Andre, a British spy who was seeking to make 'contact with Benedict Arnold. According "to the law and usage of nations" he was ordered hanged.

The jurisdiction of the early Military Commissions, in general, extended to persons in occupied territory who committed ordinary crimes (assault, larceny, and other violations of the penal code) as distinguished from crimes in violation of the Laws of War. A separate tribunal designated "Council of War" was inaugurated by General Scott to try the latter class of offenses. The "Council of War" differed from the Military Commission only in respect to the class of cases referred to. It was a short-lived institution and but few proceedings were brought before it, the main, guerrilla war­fare being regarded as illegal, and enticing soldiers to desert the service of the United States. The charges were labeled as being in "violation of the Laws of War.

During the Civil War, the jurisdiction of the Military
Commission which had in the meantime come to be recognized by statute, was extended to include offenses against the Laws of War and the "Council of War Court" passed out of existence (Winthrop, p. 831-834). About the United States Supreme Court recognized the validity of a decision handed down by a Military Commission (Ex Parte Vallandigham, 7 Wallace 245; Grafton vs. U.S. 206 U.S. 355) and that the military tribunal had thus grown to full legal stature.

In 1873, the Supreme Court of Tennessee said: "It is a principle quite as old as the Law of Nations that the conquering power may create tribunals, to endure during the time of occupation, to try civil and criminal cases, and it makes no difference what these tribunals are called. . . Those tribunals have in due course been recognized by the court, and treated as lawfully constituted tribunals." (State Ex Rel. Kain vs. Hall, 6 Baxter 5).

In Ex Parte Quirin, supra, p. 20, the Supreme Court of the United States said: "We hold only that those particular acts constitute an offense against the law of war which the Constitution authorizes to be tried by military commission" (italics supplied).

THE COMPOSITION OF THE MILITARY COMMISSION: Not being a creature of statute, the military commission is not bound by formal rules of procedure as is the court-martial. Precedent alone controls. In practice the same officers who are authorized by statute to appoint general courts-martial have exercised the power to appoint military commissions. The commission may be composed of any number of persons who need not be Army Officers. It may be composed "in part of civilians or of enlisted men, even of single member would be as strictly legal as would be one of thirteen members." (Winthrop, p. 835).

Basic Field Manual, FM 27-5, 22 December 1945, provides that Military Commissions . . . in general will not be circumscribed by the statutory and other rules governing courts-martial; and their number, type, jurisdiction and procedures will be determined by the Theater Commander, subject to instructions from higher authority." (Par. 38). "In providing for military commissions, which may consist of any number of officers, the commander will appoint not less than three except in extraordinary circumstances" (Par. 42b). Both Army and/or Navy officers may compose the personnel of the court (Par. 48d); the power to appoint may be delegated (Par. 41).

THE JURISDICTION OF MILITARY COMMISSIONS: The commission has jurisdiction of only such cases or class of cases as may be referred to it by the appointing authority or confirming authority (FM 27-5, par. 40a). As exceptions, with minor exceptions, its jurisdiction extends to all persons within the occupied territory (Par. 42b). As to offenses: its jurisdiction extends to all violations of the duly issued orders of the theater commander; to all violations of the Laws of War; to all violations of the local criminal laws and at times to ordinary civil litigation (FM 27-5, par. 42c, d and e; Winthrop, p. 838-41; Dig. Op. JAG 1912, p. 1067).

It is not the rule that cases in the two categories were committed outside the area of the military occupation. (WD General Orders No. 52, Dept. of the Pacific 1863). Although there is considerable authority to the contrary (Winthrop, p. 836-7), it would appear that custody of the offender is sufficient to give the military commission jurisdiction (Fairman, Chap. X). In this respect courts-martial jurisdiction is the same. A soldier may be tried before a general courts-martial convened in Australia for an offense committed by him in Casablanca or anywhere else (JAG Bulletin, September 1945, p. 377). So also with offenses against the Laws of War. Such offenses have no territorial status and may be tried anywhere custody of the person can be obtained—preferably at a place most convenient to the prosecution or wherever the ends of justice may best be served (Fairman, p. 203-8). The announced policy of the Allied Powers is to return war criminals to the place where the offense was committed, there to stand trial (joint statement Roosevelt, Churchill and Stalin, Nov. 12, 1945).

If the offense constitutes a violation of local laws as well as of the Laws of War, i.e., pillaging or murder, by soldiers of the invading or retreating army, no good reason exists why, in the discretion of the military commander, such offenses may not be tried by the local criminal courts if they are operating and have custody of the accused. Of course proceedings before a Military Commission are more summary in nature and will undoubtedly be resorted to in most instances.

A trial before a Military Commission after an earlier trial before a local court does not constitute double jeopardy unless the local court derived its jurisdiction from the laws of the United States (Grafton vs. U.S. 206 U.S. 355; Dig. Op. JAG 1912, p. 106; Manual for Courts-Martial, 1928, p. 55). PROCEDURE BEFORE MILITARY COMMISSIONS: As heretofore stated there are not prescribed rules, statutory or otherwise, governing the procedure before military commissions such as exist for courts-martial. Lacking a better guide, the forms and rules of procedure governing courts-martial are, when convenient, used and applied. The failure to follow such procedure, however, does not render the proceedings illegal. For example, the failure to record the testimony, or the denial of the right of challenge or the introduction of a statement adjudging confiscation of accused's property, have all been recognized as proper even though illegal under courts-martial procedure (Winthrop, p. 841). Basic Field Manual (FM 27-5, 22 Dec. 1945) contains several general provisions relating to procedure before military tribunals (par. 44-47).

It is customary for the Convening Authority to specify, in the order appointing the commission, the procedural rules which are to be followed. In the recent saboteur case, President Roosevelt, as the Convening Authority stated, in the order appointing the court, "The commission shall have power to and shall, as occasion requires, make such rules for the conduct of its proceedings, consistent with the powers of military commissions under the Articles of War, as it shall deem necessary for a full and fair trial of the matters before it. Such evidence shall be admitted as would, in the opinion of the president of the commission have probable value to a reasonable man. The concurrence of at least two-thirds of the members of the commission present shall be necessary for a conviction or sentence. The record of trial, including any judgment or sentence, shall be transmitted directly to me for my action thereon." EVIDENCE ADMISSIBLE BEFORE MILITARY COMMISSIONS: "It is advisable that military courts, in the trial of offenses directly affecting military government, be directed to follow the rules of evidence for
Army or Navy courts-martial. It is not required that this be done, however, as there may be instances when it will be appropriate to disregard such rules" (FM 27-5, par. 84a).

It is noted that the words "offenses directly affecting military government" are used. A War Crime is not necessarily an act prohibited by law. War crimes against the Laws of War are concerned, no general guide is provided, and the evidence rule laid down by the President in the saboteur case may well be followed. In the prosecution of War Criminals the military tribunal ought not to be hampered by technical rules of evidence, particularly rules which the enemy Powers do not follow in their own courts. Such evidence: "as would have probative value in the military trial, is properly admitted. Courts-Martial have come to be bound up with many technical rules—particularly rules relating to the admissibility of evidence (Manual for Courts-Martial, 1928, Chap. XXV), that were military commissions to follow those rules, few, if any, of the war criminals would ever be convicted (Glueck, p. 28, 118).

Neither courts-martial nor military commissions are courts in the true sense of the word (Winthrop, p. 49). They are "instrumentalities of executive power, provided by Congress for the President as Commander-in-Chief, to aid him in properly commanding the army and navy and enforcing discipline therein, and utilized under his orders or those of his authorized military representatives" (Winthrop, p. 49).

Congress, pursuant to Art. I, Sec. 8 of the Constitution enacted laws controlling procedure and evidence in courts-martial cases (Articles of War, manual for Courts-Martial, 1928)—but military commissions are not so bound. In Bence vs. Federal Trade Commission 290 Fed. 468-471, the Circuit Court, laying down the rule as to the character of evidence admissible before administrative bodies or quasi judicial tribunals said, "We are of the opinion that evidence or testimony even though legally incompetent, if of the kind that usually affects tarnished men in the conduct of their daily and more important affairs, should be received and considered; but it should be fairly done." (See also Labor Board vs. Columbian 306 U.S. 292, 300; Edison Co. vs. Labor Board 305 U.S. 197, 299).

The comments of Claude Mullins who was present as an interpreter for the British Mission during the Leipzig Trials are particularly appropriate. He said: "It is exceedingly difficult, if not impossible, for Englishmen to prove the conduct of ex-enemy generals according to the standards of proof obtaining in British courts . . . the immediate result was that it was impossible to prove against many of the worst offenders." (Mullins, Leipzig Trials, 1921, p. 29-31).

The elastic powers of the military commission should not be used to aid in the escape of war criminals. The accused is unquestionably entitled to the aid of counsel and a fair hearing. The commission and the witnesses ought to be sworn and the proceedings recorded. Prior to trial the accused ought to be served with a bill of complaint wherein the nature of the offense is specifically set forth. The charge in most instances will be "Violations of the Laws of War." In the event of conviction the accused may present any reasonable appeal to the commanding general. The sentence will be carried into effect in the manner of the approving authority and after such review by him as the circumstances warrant (Fairman, 271-8). Legally, there is no limitation on the power of the reviewing authority to act with respect to the sentence of a military commission except that the execution of the sentence may not be ordered until after review of the record by the Staff Judge Advocate (Art. of War 46; FM 27-5 par. 47b). The action of the reviewing authority is not, as such, reviewable by a civil tribunal (Ex Parte Vallandigham, 1 Wallace 245).

THE SENTENCE WHICH MAY BE IMPOSED BY A MILITARY COMMISSION: Except in the case of spics, the existing law makes no provision whatever in regard to the quality or quantity of the punishment to be adjudged by the military commission. The power of such court to award sentence is thus practically without restriction. It is not limited to the penalties known to the practice of courts-martial nor indeed are the strictly military penalties such as dismissal, dishonorable discharge, suspension, etc., in general applicable to it. The punishments more usually employed have been death, imprisonment and fine. Death has commonly been by hanging. Imprisonment, (ordinarily with hard labor) has been imposed for a term of months or years, the place designated for the imprisonment has usually been a penitentiary or a fort. . . . In a few cases the fines have been directed in the sentence to be paid to individuals by way of indemnification for the money or property stolen or injuries suffered. In some other cases the accused has been required by the sentence to restore the specific money, or property, stolen" (Winthrop, p. 842-5). "A further dissenting penalty not infrequently adjudged by military commissions was confiscation of property. . . . Another specie of punishment often imposed has been the open exposition of the proceedings to the public (Winthrop, p. 842-5).

COMPLIANCE WITH THE MILITARY ORDERS AS A DEFENSE: It is anticipated that the accused, as was done at the Leipzig Trials, will plead that his act was in compliance with a military order which he was duty bound to obey. It will be argued that he had no other choice, for to have disobeyed would have subjected him to the severest punishment, even death (See AW 54).

"Obedience to orders is the vital principle of the military life—the fundamental rule, in peace and in war, for all inferiors through all the grades from the general of the Army to the newest recruit" (Winthrop, p. 571-2). This well-recognized principle of military law, however, presupposes that the order is a legal one—or as Winthrop stated it (page 296), "... it must command a thing not in itself unlawful or prohibited by law."

Does this mean that the inferior may assume to determine the question of the lawfulness of the order and would not such an assumption on his part subvert military discipline? Winthrop gave the answer as follows (pages 296-7): "Where the order is apparently regular and lawful on its face, he is not to go behind it to satisfy himself that his superior has proceeded with authority but is to obey it according to its terms, the only exceptions recognized to the rule of obedience being cases of orders so manifestly beyond the legal power or discretion of the commander as to admit of no rational doubt of their unlawfulness. Such cases except, a command to violate a specific law of the land or an established custom or written law of his military service or an arbitrary command imposing an obligation not justified by custom, usage, or a command to do a thing wholly irregular and
improper. . . . Except in such instances of palpable illegality, which must be of rare occurrence, the inferior should presume that the order was lawful and authorized and obey it accordingly, and in obeying it he can scarcely fail to be held justified by a military court.

In United States vs. Carr, 1 Woods 480, Fed. Cases No. 14, 732, a sergeant was prosecuted for having shot to death a soldier who had used disrespectful language. The accused pleaded in defense that he was acting upon the orders of his military superior. The defense was held to be without merit. The court in charging the jury stated in substance that a soldier is duty bound to obey only lawful commands and that an order to shoot for the use of disrespectful language would, if executed, be murder on both the part of the giver of the order and the one who executes it.

There are many cases on this subject matter, the underlying principle being that obedience of a palpably unlawful order is no defense to a criminal prosecution except that it may be considered in mitigation (Bates v. Clark, 95 U.S. 206, 209; Little v. Barrere, 2 Cranch U. S. 179; Manley v. State, 137 N.W. 1157; McGill v. McDowell, Fed. Cases No. 8, 673; United States v. Bevans, Fed. Cases No. 14, 789 (rev. on other grounds, 3 Wheaton 538); United States v. Bright, 24 Fed. Cases 1292; Mitchell v. Harmony, 15 Howard 115, 137; U.S. v. Jones, 26 Fed. Cases 655; Winthrop, p. 887; Gucek, chapter 8; Board of Review Opinions JAG, Vol. 36, 105-115). The rule is the same in other countries (Regina v. State, 37 Cape Reparts 86; De la Sanction des Infractions au Droit des Gens, XXIV Rev. Gen. de Droit Internat. Public (1917), 5, 53).

A German court stated the rule as follows: "However, the subordinate obeying such an order is liable to punishment if it was known to him that the order of the superior involved the infringement of civil or military law. This applies to the case of the accused. Military subordinates are under no obligation to question the orders of their superior officers and they can count upon its legality. But no such confidence can be held to exist if such an order is universally known to everybody, including also the accused, to be without any doubt whatever against the law. . . . They should, therefore, have refused to obey. As they did not do so, they must be punished" (16 Am J. Int. Law 674, 798, 721). Compare this with the case of Karl Neumann, Leipzig Trials, supra.

The defense of acting on superior orders was interposed by the defendants in the recent Kharkov trials. The court, finding the accused guilty, apparently agreed with the argument of the prosecuting attorney which was as follows: "A member of the German Army who sets fire to peaceful cities and villages, kills the civilian population and forces women, children and old men into burning houses knows perfectly well that such acts constitute a violation of international law and of the laws prevailing in all civilized countries. Criminal responsibility must be borne by the instigators and the perpetrators of the crimes for otherwise the majority of the monstrous crimes perpetrated by the fascist criminals would remain unpunished inasmuch as the perpetrators would be allowed to cover themselves by the defense of superior orders" (Ivensia, 21 Dec. 1945 No. 300).

The task of doing justice in the matter of War Crimes is tremendous. The gathering of evidence and the identification of the perpetrators is but the beginning of a very tortuous road. It has been promised by the three big Allied Powers that those who have "imbued their hands with innocent blood” will be pursued “to the uttermost ends of the earth.” There must be just retribution and the task which has been undertaken must be done.
JOHN ANDRÉ—Officer and Gentleman

BY COLONEL W. A. GRAHAM, U.S.A. RETIRED

"TREASON OF THE BLACKEST DYE WAS YESTERDAY DISCOVERED." Major General Nathaniel Greene, of the Continental Army, thought he had found a criminal before he became a soldier, had the instincts and inspirations of a modern journalist. He appreciated the value of startling headlines. And he was in no mood to make a public sensation of the arrest of a man when the public was in arms. He wished to get that man into the hands of the enemy.

"General Arnold a traitor! It was unbelievable. Arnold, the "fighting general," beloved of his men; the dashing, intrepid assiduit of Quebec; the fearless, invincible hero of Saratoga; the comrade and favorite of Washington—gone to the enemies after an act of basest treachery! It was incredible. Yet it was true. Small wonder the plaiters of distress, the agitators of apprehension, could spy the Army. Small wonder the envious eyes of Washington: "Whom can we trust now?

"It came from a broken heart. The war for independence had been dragging out, both to the disgust of the British Government and to the dismay of the revolving colonies; the patience of the Parliament was near to exhaustion upon the one hand; and upon the other, the vaunted French alliance had as yet borne little fruit. Military progress on either side was at a standstill, and the armies of Washington and Clinton lay glaring at each other, only a few miles apart, the British at New York, the Americans along the Hudson and in the Jerseys. And so it had been for months. Affairs had gone badly in the South. Gates had been routed at Camden; Charleston was lost; the states were not coming through either with men or with supplies. Prospects were far from rosy for Washington; but Clinton, also, seemed uneasy for campaign.

"Almost the only activity was that of the "Cowboys" and "Skinners," partisan bushwhackers who intested the neutral ground—the "No-Man's-Land" between— who raided the country and stole from either side with the utmost informality and impartiality. The "Cowboys" professed pro-British sympathies, while the "Skinners" claimed to be the good friends of America; but sympathies had little in common with their operations, nor did Cowen or Skinner hold his hand when opportunity to foot and steal appeared, whether the victim chanced to be a loyal adherent of his Majesty King George, or one of his rebellious subjects."

But it was a lucky thing for the cause of American independence that a party of these gentlemen of the road were on the job at 9 o'clock on the morning of September 23rd. Had they been as nearly asleep as were some others of the Continental Army, these United States would, very likely, still enjoy the status of British colonies; and West Point, the nursing ground of military genius in America, might be known as the ancestral estate of the Arnold-Arnolds.

During June, 1780, it became known to Sir Henry Clinton that some one, high in authority in the American Army, was ready, if properly approached, to sell out the American cause, and gain for British gold a victory that British arms had as yet been powerless to achieve. The unknown styled himself "Mr. Gustavus." A disguised correspondence was opened with him, which dealt in vague allusions to risks and profits and co-partnerships; and in other mercantile forms and phrases which gave it a commercial color, in case a letter should go astray. "Mr. Gustavus" pretended to be Major General Benedict Arnold, a man who, while his only military..."
training had been acquired as a runaway recruit of fourteen during the French and Indian War, had nonetheless shown himself to be one of the most brilliant and efficient leaders developed by the Revolution; but withal a man of haughty disposition, arrogant in manner and of impulsive temper, whose pride had been wounded and his heart embittered by what he regarded as petty persecution and rank injustice and ingratitude at the hands of his countrymen.

Notwithstanding his distinguished services—and they had been distinguished—Arnold had been overlooked by Congress in the promotion over him of his junior. He had been tried the year before by a general court-martial upon a political charge and found guilty, and was to be arrested against him by the Executive Council of Pennsylvania; and this soon after his gallant work at Saratoga, when he pulled Gates out of a hole and did more than any other to force Burgoyne's surrender. And while the result of this trial had entailed no more than reprimand, Arnold had been stung to the quick and left in an ugly and resentful frame of mind. While in command at Philadelphia in '78, he had chosen as his intimates the Loyalists rather than the Revolutionists; he had married into a prominent Loyalist family, and had, perhaps, been impressed with Loyalist views. In any event, whatever the elements and causes that had combined to produce his condition of mind, Arnold was ripe for intrigue and for treason. His soul was bitter; his heart was wrong; and there is little enemy, when in secret he turned upon it, planning and confidence in him, he sought and obtained the command of mind, Arnold was ripe for intrigue and for treason. His...
such unheard of conduct and at once set about to inscribe a protest to the American general in command. André interposed; and drafting the letter in his own hand, saw it sent ashore under a flag of truce, addressed to "Major General Arnold." While the letter was signed "A. Sutherland," André had countersigned it "J. Anderson, Sec'y," by this means informing Arnold of his presence on the British shore.

All day long André waited without word, but when night fell on the 21st a boat pulled out to the "Vulture." Mr. Joshua Smith and two men had come to bring John Anderson, the merchant, ashore. And "Mr. Gustavus" sent word by Smith that if their business should continue so long as the ferry was open, André's return the next day; he would be safely lodged ashore until he might return in safety. André, who was in full uniform, threw an overcoat over his scarlet tunic, and went ashore. There, upon the silent river bank, where the shadows of the Haverstraw mountain overcast the waters, he found "Mr. Gustavus," waiting.

And now again his plans went wrong. André had no intention of giving within American lines. Sir Henry Clinton had explicitly directed him not to do so, and had earnestly warned him under any circumstances neither to disguise nor quit his uniform, and above all to have nothing to do with incriminating papers. But there was much to be discussed—details and signals to be arranged; many facts and figures to be learned. It was evident that this business could not be concluded among the thickets that lined the river bank; they must seek the cover of a friendly roof. André had horses in waiting, and together he and the unsuspecting André set off for Smith's house. Not until he passed the pickets did André learn that Arnold, unwittingly, had led him into a trap; that he was within American lines; his life treated as a spy. In any event, he could not turn back.

The interview lasted long into the night. In his own handwriting, and his own fate was sealed should anything they contained, which he might easily have done after an hour of study, he folded them together and having placed them inside his stockings, drew on his overcoat high-top boots. A safe hiding place for the papers, indeed; but a most unsafe one for him, since should he be captured and searched, by no possibility could he destroy or otherwise dispose of them. Strange it is that the threat and calculating Arnold should have permitted this proceeding, since the documents were all in his well-known handwriting, and his own fate was sealed should André Interpose. But he, too, seems to have lost his head at this juncture, and to have suggested and even insisted upon this hazardous expedition.

On the evening of the 22nd André, leaving his British uniform at Joshua Smith's house, started on horseback for New York, Smith accompanying him to guide him on his way. John Anderson, merchant, had closed his deal, and was now returning to his place of business; and General Arnold had obligingly given him a pass, in his own handwriting. It read as follows:

"Head Quarters, Robinson House, Sept. 22d, 1780

"Permit Mr. John Anderson to pass the Guards to the White Plains, or below if he chooses, he being on Public Business by my direction.

B. Arnold, M. Gen."

Smith, also, held Arnold's pass, and the two rode safely thru the lines, past King's Ferry and came to Croompond, where an officer of militia stopped them. Friendly, he advised them to stay overnight, because the road beyond was dangerous; the Cowboys and Skinners were fast and willing workers when darkness cloaked the roads. Smith, alarmed for his own safety, wanted to turn back. André for the same reason desired to go on; and they compromised by accepting the militiaman's invitation to spend the night.

In the morning Smith had sufficiently recovered from his fears to proceed, and rode with Mr. Anderson, merchant, to within two miles of Pines Bridge. Here his courage again failed him, and he turned back, leaving André to negotiate the rest of the journey alone. This should be easy, since he was now only thirty miles from King's Bridge, and close to the British outposts. So far things
had gone smoothly, despite the annoying checks and delays. Success was within his grasp. Not quite!

Close to Tarrytown the road forked. Either route led to New York; both to British posts. He chose one at random and rode on. What if he had chosen the other? The destinies of nations hang sometimes on slender threads!

It was nine o'clock in the morning of September 23rd. Three "Skinner," Paulding, Van Wart and Williams, were whiling away the time playing cards while waiting for business to turn up. The Cowboys and Skinner, when they praved at all, altered the usual supplication. Their customary petition was, "Give us this day our daily stranger." And here he came. Informal and hurried inventory disclosed that he bore good boots, rode a fine horse, had a watch and chain, and looked prosperous. Worth stopping. They stopped him.

Ah! here was the occasion,—now was the time for John Anderson, merchant, to summon all his wit and WIt. The thought of those fatal papers in his stockings may have disconcerted him. Arnold's pass was forgotten for the moment, the safe conduct that would have taken him past an American party without question and could have given him no possible embarrassment it stopped by adherents of the King. True, either might have taken his watch and money, and perhaps his horse, because they were poor men,—these "Cowboys" and "Skinners,"—and needy; but they would have passed him on; and only a league away was a British outpost.

But André, over eager, failed in caution. One of the party wore the uniform of a Hessian Yager; the three must be pro-British. He would chance it. The three had rushed from the woods with leveled muskets. "And which party is that," came the non-committal reply. "The lower party." André spoke quickly. Smiling, he spoke to them in his winning way. "My lads," said he, "why do you stop me? Surely you belong to our party?"

"And which party is that," came the non-committal answer.

"The lower party," André spoke quickly. The leader of the trio glanced at his companions.

"Well, that's our party," he drawled.

"Then don't detain me. I am a British officer on most urgent business. I must get on to New York at once," André replied. His manner was sharp. He spoke with the air of authority.

"Get down from that horse. You're our prisoner," was the astounding rejoinder. "We looked for you; we're of the upper party."

And then the posed merchant did what he should have done at the beginning. He produced Arnold's pass. "I am not a spy. I have shown you General Arnold's pass. You are interfering with his business." The two hesitated. "What will you give us to let you go?" He offered a thousand guineas; and hold me if you wish until the money is paid." André was desperate. The men bargained. He raised the offer. They talked the matter over.

"No, by G-d," cried Paulding, who seemed to be the leader, "no for ten thousand guineas; there's too much chance. They'd send out troopers to take us; we can't risk it. We'll take him to the nearest American post."

Excorted by the party, who had looked everything he had of value, André was taken to an outpost at Old Salem, commanded by Lieut.-Col. Jameson. The papers found upon his person were dispatched to Washington, and André, upon his own insistence, was started off to Arnold. Half way there, however, his guard was over-taken and ordered back. Major Talman of the Intelligence had arrived and had scrutinized the papers. He had exclaimed that General Arnold was a traitor, that the prisoner must not be sent on to him. But Jameson, while he brought André back to Old Salem, considered that he owed it to General Arnold as his immediate superior, to report the capture; and he therefore sent a note by mounted messenger, to inform Arnold that he had in his hands a person who claimed to be John Anderson, a merchant; and who, when taken, had, in his possession important papers relating to West Point. The message reached him just as he was sitting down to breakfast, a scant hour before Washington, returning from Hartford, arrived at Arnold's quarters. The traitor read the message, calmly excused himself from his guests, and going to his wife's apartment he quickly told her that events had so shaped themselves that he must stand not on the order of his going, but must go at once. He dashed to the river, leaped from his horse, and pistols in hand, ordered the crew of his barge to row him swiftly to the "Vulture." Arrived there, he and Robinson at once engaged in writing letters to Washington in an effort to clear the unlucky André. But it was not to be. André, poor devil, was caught fast in the net, and when the terror of his situation had passed and he was himself again, he wrote a straightforward, manly letter to Washington. He avouched his own identity, plainly stated the purpose of his visit, and asked only, whatever might be his fate, since he "against his intention and without his knowledge beforehand" had been betrayed into "the vile condition" of an impostor and a disguised enemy, that "a decency of conduct toward me may mark that, that unfortunate, I am branded with nothing dishonorable, as no motive could be mine but the Service of my King."

"Having avowed myself a British officer," he wrote, "I have nothing to reveal but what relates to myself, which is true on the honour of an Officer and a Gentleman."

That sentence was the keynote of André's character. Washington acted instantly. He ordered pursuit for Arnold, and the utmost precautions for the security of...
Andre. But Arnold was safe on board the "Vulture" and could not be apprehended. The villain of the play had escaped!

That there might be neither civil nor criticism, no time was lost in bringing Andre to his trial before a board of general officers—we would call it now, a Military Commission—which sat at Tappan on September 28th. Never was there assembled a more distinguished body. It was composed of men whose names have come down to us as foremost among the champions of liberty and independence. Nathaniel Greene sat as presiding officer; Colonel Alexander Hamilton, the hero of Long Island; La Fayette, a name dear to all Americans; Von Steuben, pupil of Frederick the Great of Prussia; "drillmaster of the Revolution" St. Clair and Howe; Major Generals all, were the senior members; and Brigadiers Clinton, Glover, Hand, Parsons, Patterson and Huntington sat below them at the table. Knox of the Artillery, later first Secretary of War, was there; and likewise John Stark, whose words at Bennington every schoolchild knows: "Soldiers—there are the red-coats. We must beat them, or Molly Stark will be a widow tonight." John Laurence, Judge Advocate General of the Army, was the prosecuting officer.

Washington sent Andre before this distinguished tribunal by means of a dignified letter, prepared by his aide, Colonel Alexander Hamilton, which stated simply and clearly the circumstances under which the prisoner had fallen into American hands. And with his letter, he transmitted Andre's own letter to him; the papers in Arnold's handwriting found upon him; and the "pass to Mr. John Anderson." And he sent, too, letters he had received from Arnold and Robinson and Sir Henry Clinton, which protested against holding Andre prisoner; averring that he was not a spy, and setting forward an insistent claim that he had gone to Arnold under the protection of a flag. He stated frankly that the boat in which he came on shore "carried no flag"; and upon disavowed any claim that he had visited Arnold under the protection of a Flag of Truce. During the day a Flag of Truce was sent from the Vulture to complain of the Violation of a military rule in the Instance of a boat having been decoyed on Shore by a Flag and fired upon. The Letter was addressed to General Arnold signed by Captain Sutherland, but written in my hand and countersigned by Sir Henry Clinton. The intent was to indicate my presence on board the Vulture.

"In the night of the 21st a boat with Mr., and two hands came on shore under that sanction; adding "that if he came on shore under that sanction"; adding "that it was impossible for him to suppose that he came on shore under that sanction"; adding "that he ought to be considered, and the punishment, that ought to be inflicted on board until the night of the 21st. During the day a Flag of Truce was sent from the Vulture to complain of the Violation of a military rule in the Instance of a boat having been decoyed on Shore by a Flag and fired upon. The Letter was addressed to General Arnold signed by Captain Sutherland, but written in my hand and countersigned by Sir Henry Clinton. The intent was to indicate my presence on board the Vulture.

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Gentlemen,

Major Andre, Adjutant General to the British army will be brought before you for your examination. He came within our lines in the night on an interview with Major General Arnold, and in an assumed character; and was taken by three Volunteers who, not satisfied with my pass, rifled me and finding papers, made me a prisoner.

I got off the boat, landed and spoke with Arnold. I got on horseback and with him to proceed to L: house and on the way passed a Guard I did not expect to see, having Sir H. Clinton's direction, not to go within an Enemy post or to quit my own dress.

In the morning I aquired one, having himself inside me put the papers I bore between my Stockings and Feet; whilst he did it he expressed a wish in case of any Accident betraying me, that they should be destroyed which I said of course would be the case, as when I went into the boat I should have them tied about with a String and a Stone. Before we parted some mention had been made of my crossing the River and going by another route, but I objected much against it and thought it was settled that in the way I came I was also to return.

It was against my mortification persisted in his determination of carrying me by the other route, and at the decline of the Sun I set out on horseback, passed King's Ferry and came to Gompound, where a party of militia stopped us and advised we should remain.

In the morning I came with as far as within two miles and a half of Foxes-Bridge, where he said he must part from me; the guardsways infested the road thenceforward. I was now near 30 miles from King's Bridge and left to the Chance of passing that Space undiscovered. I got to the neighbourhood of Tarry Town, which was far beyond the limits described as dangerous, when I was taken by three Volunteers who, not satisfied with my pass, rifled me and finding papers, made me a prisoner.

I have omitted mentioning that when I found myself within an Enemy post, I changed my dress.

We witnesses were called, Andre's honesty and candor had made it quite unnecessary. There was but one conclusion to which it was possible to come. He was a spy.

The report to Washington immediately followed. The original of this interesting document may be seen among the Washington papers in the Library of Congress. All in the handwriting of John Laurence, and signed by every member of the historic body which tried him, Andre's trial was preceded by the following solemn words:

"The Board having considered the letter from his Excellency General Washington respecting Major Andre, Adjutant General of the British Army, the confession of Major Andre and the papers produced to them, report to his Excellency, the Commander in Chief, the following solemn facts, which appear to them relative to Major Andre.

"First, that he came on shore from the Vulture ashore of war in the night of the 21st of September instant, on an interview with General Arnold, in a private and secret manner.

"Secondly, that he changed his dress within our lines and under a forged name, and in a disguised habit, passed our works at Stony and Verplanck's Points, the evening of September 22nd instant, and was taken the morning of the 23rd of September instant, at Tarry Town, in a disguised habit, being then on his way to New York; and..."
when taken he had in his possession several papers, which contained intelligence for the enemy.

"The Board having minutely considered these facts, do also report to his Excellency General Washington, that Major André, Adjutant General of the British Army, ought to be considered as a spy from the enemy, and that, agreeable to the law and usage of nations, it is their opinion, he ought to suffer death."

Desperate effort was made by Sir Henry Clinton to save him, but without success. Washington could not be swayed; and neither humble request of personal favor to the British commander, nor threat of retaliation upon the part of Arnold, affected his grim determination. Clinton sent a deputation headed by Lieut. General Robertson, in company with the Lieutenant Governor and the Chief Justice of New York to plead for André; but Washington declined to see them. Robertson alone was permitted to land; and he conferred with Greene, but to no avail. Stern policy demanded that André's life be forfeited as a warning to others.

During his short confinement, the man most with the prisoner was Colonel Alexander Hamilton, Washington's favorite aide. He, more than any other, was permitted to see the glory of André's character. During one of his visits the doomed man begged Hamilton to bear this request to Washington for permission to send an open letter to his General:

"I foresee my fate," he said, "and though I pretend not to play the hero, or to be indifferent about life, yet I am reconciled to whatever may happen, conscious that misfortune, not guilt, will have brought it upon me. There is only one thing that disturbs my tranquility. Sir Henry Clinton has been too good to me; he has been lavish of his kindness. I am bound to him by too many obligations and love has taught me to bear the thought that he should reproach himself, or that others should reproach him, on a supposition that I had conceived myself obliged by his instructions to run the risk I did. I would not for the world leave a sting in his mind that should mar his memory of me."

"He could scarce finish the sentence," wrote Hamilton to his friend, Laurens; "bursting into tears in spite of his efforts to suppress them, and with difficulty collected himself enough afterwards to add, "I wish to be permitted to assure him I did not act under this impression, but to no avail. Stern policy demanded that André's life be forfeited as a warning to others."

Arrangements for André's execution were immediately made. On October 1st Greene's orderly book contains the entry: "The Commander in Chief directs the execution of the above sentence in the usual way this afternoon at five o'clock precisely."

"I then die in this manner," he said, "but not to the mode." Soon, however, regaining his composure, he added "Let it be but a momentary pang", and springing upon the cart, performed the last offices to himself with a composure that excited the admiration and melted the hearts of the beholders. Upon being told that the fatal moment was at hand, and asked if he had anything to say, he answered, "Nothing, but to request you will witness to your Excellency and a military tribunal to adapt the mode of my death to the feelings of a man of honour."

"I have the honour to be, Your Excellency's most obedient and most humble Servant, John André, Adj. Gen., to the British Army."

"His Excellency General Washington." Washington, deeply affected by this soldierly appeal, but feeling that to grant the request was impossible, as incompatible with the custom of war, returned the following reply:

"With the fine delicacy of a great gentleman, he desired to spare the feelings of the condemned man even to the last moment. And so until the gallows actually loomed before him, André remained ignorant of the method by which his life should be spared."

"buoy'd above the terror of death by the consciousness of a life devoted to honourable pursuits, and stained with no action that can give me remorse. I trust that the request I make to your Excellency at this serious period, and which is to soften my last moments, will not be rejected."

"The execution, postponed by the Commander in Chief until noon of October 2nd, that Clinton's deputation might be heard, is pathetically described by Hamilton:

"When he was led to the place of execution, as he went along he bowed familiarly to all those with whom he had been acquainted in his confinement. A smile of complacency expressed the serene fortitude of his mind. Arrived at the local spot he asked, with some emotion. "Must I then die in this manner?" He was told it had been unavoidable. "I am reconciled to my fate," said he, "but not to the mode." Soon, however, recollecting himself, he added "It will be but a momentary pang", and springing upon the cart, performed the last offices to himself with a composure that excited the admiration and melted the hearts of the beholders. Upon being told that the fatal moment was at hand, and asked if he had anything to say, he answered, "Nothing, but to request you will witness to the world that I die like a brave man." Among the extraordinary circumstances that attended him in the midst of his enemies, he died universally esteemed and universally regretted."

The whole American Army lamented André even as it execrated Arnold. Great Washington himself, bowed down by a profound and sincere grief, shut himself alone in his quarters, and no order issued from him the day that André died.

"Never, perhaps, did a man suffer death with more placency. The whole military justice of revolutionary days was swift; and stern policy demanded that André's life be forfeited as a warning to others."

Realizing that he must die, André addressed one more request to Washington. No plea for mercy; no prayer for pardon; no petition for the commutation of his sentence, but a touching, manly, wonderful appeal that the manner of his death should not be ignoble. It is one of the finest, most remarkable papers ever written. Simple with the grandeur of quiet dignity, it displays the character and soul of a hero. Here it is:

"Sir: Buoy'd above the terror of death by the consciousness of a life devoted to honourable pursuits, and stained with no action that can give me remorse. I trust that the request I make to your Excellency at this serious period, and which is to soften my last moments, will not be rejected."

"Let me hope, Sir, that if ought in my character im­ possesses you with esteem towards me, it ought in my misfortune marks me as the victim of policy and not of remonstrance. I shall experience the operation of these feelings in your breast by being informed that I am not to die on a gibbet."

"I have the honour to be, Your Excellency's most obedient and most humble Servant, John André, Adj. Gen., to the British Army."

"His Excellency General Washington."
THE decisions rendered by a Board of Review in the Office of The Judge Advocate General are divided into three classes, Opinions, Reviews and Holdings (long and short) determined by the type of case involved and the action required therein by the reviewing or confirming authority (Articles of War 46 to 53 inclusive).

1. OPINIONS are written in two types of cases, confirmation and legally insufficient published order cases.
   a. Confirmation cases—In addition to the approval by the reviewing authority required by Article of War 46, an action of confirmation by the President is also required by Article of War 48 as to,
      (1) Any sentence respecting a general officer
      (2) The dismissal of an officer
      (3) The suspension or dismissal of a cadet (USMA) (USM)
      (4) Death sentences
      before the sentence of a court-martial may be carried into execution.
   The President of the United States personally retains and exercises his statutory confirming authority in all cases (except as to the five offenses explained below) where a sentence of death is imposed. In all other cases requiring confirmation by the President, the Secretary of War and the Under Secretary of War have been delegated (by Executive Order No. 9356, dated May 28, 1945) the power to confirm and to order execution thereof excepting death sentences and sentences authorized to be acted upon by a confirming authority overseas.
   In time of war the Commanding General of the Army in the Field is given authority by Sections (b) and (d) of the 48th Article of War, if so empowered by the President, to confirm and order executed:
      a. Any sentence of death imposed on persons convicted of murder (AW 92), rape (AW 93), mutiny (AW 66), spies (AW 82) and desertion (AW 58). (See AW 50Y2).
      b. The suspension or dismissal of a cadet (USMA) (USM)
   In such cases if the honorable discharge contained in the approved sentence has pleaded guilty in the same manner as those in which the accused has pleaded guilty, the proper reviewing authority or confirming authority may order the execution of the dishonorable discharge without first obtaining the decision of the Board of Review, with the approval of The Judge Advocate General, has held the record of trial upon which such sentence is based, legally sufficient to support the sentence (par. 3 AW 50Y2).
   There are numerous cases wherein the dishonorable discharge contained in the approved sentence has been suspended by the reviewing authority and the general court-martial order published before the record is sent to The Judge Advocate General's Office (termed a "Published Order Case"). If after examination for legal sufficiency by examiners in the Military Justice Division of The Judge Advocate General's Office (required by paragraph 5 of AW 50Y2) it is found that such record is legally insufficient, in whole or in part, to support the sentence and that decision is supported after review of the record by a Board of Review, the Board's written decision vacating the findings and sentence is termed an opinion. Final action on this type of case is taken by the Secretary or Acting Secretary of War (par. 5 AW 50Y2), but by Executive Order No. 9356, May 28, 1945, the Under Secretary of War is also authorized to take final action.
   2. REVIEWS—A policy, established by The Judge Advocate General in 1944, requires that, in all cases wherein the sentence, as approved by the reviewing authority, includes a period of confinement exceeding twenty-five years and the dishonorable discharge is not suspended, a review be prepared by a Board of Review containing a summary of the facts and a statement of the law governing the case. This is signed by the Board of Review and approved by The Judge Advocate General. It is then placed in the file in accordance with the record to the Court-Martial Record Room in The Judge Advocate General's Office to be filed. This is not a statutory but an office administrative requirement.
   3. HOLDINGS—two types.
   a. Short Holdings—the form most frequently used.
      In all records of trial by general court-martial of enlisted men wherein the accused has pleaded "not guilty" and the approved sentence involves dishonorable discharge not suspended, or confinement in a penitentiary, no reviewing or confirming authority may order the execution of the dishonorable discharge until the Board of Review, with the approval of The Judge Advocate General, has held the record of trial upon which such sentence is based, legally sufficient to support the sentence (par. 5 AW 50Y2). A short and simple statement by the Board of Review constitutes the formal short holding. A first indorsement thereto tells the reviewing authority that he is now authorized to publish a general court-martial order directing the execution of the sentence. This indorsement is signed by the Assistant Judge Advocate General In Charge of Military Justice Matters who functions under the provisions of Executive Order No. 9383 dated 23 July 1943 which empowers him to exercise and perform all functions, duties and powers conferred upon The Judge Advocate General by AW 46 and by the second to the fifth paragraphs (inclusive) of AW 50Y2. In such cases the proper reviewing authority or confirming authority may, upon his approval of the sentence, order its execution without first obtaining the decision of the Board of Review as to legal sufficiency and the approval of The Judge Advocate General. (Par. 5 of AW 50Y2.) Such action is optional and not compulsory. Reviewing authorities frequently treat 50Y2 cases wherein the accused has pleaded guilty in the same manner as those in which he has pleaded not guilty.
   b. Long Holdings. This is the same type of case as covered above in short holding (enlisted men who plead not guilty, or carrying sentence of dishonorable discharge to be executed, or penitentiary confinement) but where the examination by the Board of Review discloses that the record is legally insufficient in whole or in part to support the sentence. In such cases the first indorsement addressed to the reviewing authority invites attention to the holding, advises approval thereof and recommends action in accordance therewith. The facts pertinent to the Charge and Specification found to be legally insufficient are set forth at such reasonably necessary length as required to sustain the adverse legal ruling.
Distinguished Service Medal
To: Myron C. Cramer, Major General, The Judge Advocate General, 3117 Fordham Road, N.W., Washington, D. C.
For: "Major General Myron C. Cramer, the Judge Advocate General of the Army, discharged his heavy responsibilities in an exemplary manner from December, 1941, to October, 1945. Beginning his task at the critical time when the Nation and the Army were undergoing the transition from peace to war, he was immediately confronted with difficult, complex, and unprecedented legal problems incident to the unparalleled expansion of the Army. By virtue of his comprehensive legal background, he accomplished his assignment with exceptional distinction. His aggressive leadership and astute judgment were reflected in the formulation of the Army's legal policy in respect to the acquisition of military reservations and foreign bases and airfields, contracts covering a tremendous procurement program, and the selection and training of additional personnel for the Judge Advocate General's Department including the plans and procedures necessary for choosing and training lawyers for the Army. He made substantial contributions to the revision of policy concerning habitual offenders in view of the critical need for salvaging and rehabilitating all available manpower, made provision for adequate legal assistance to all Army personnel in the conduct of their personal affairs, and provided for the prompt punishment of all violators of military law while simultaneously assuring protection of the soldier's rights before a military court. General Cramer's services were accomplished with a constant and zealous regard for the best interests of the Government and reflect great credit upon himself and the military service."

Distinguished Service Medal (Oak Leaf Cluster)
To: Thomas H. Green, Brigadier General, United States Army, 2229 Bancroft Place, N.W., Washington, D. C.
For: As Deputy Judge Advocate General of the Army from October 1944 to September 1945 he made an outstanding contribution to the war effort and the defeat of the enemy. His tremendous force and drive and his consummate skill and legal ability were major factors in expediting the multiple activities of the Judge Advocate General's Office. Besides discharging with remarkable swiftness the many duties and responsibilities normally falling upon him as Deputy he directed the formulations of legal procedures for the War Department operation of strike-bound industrial facilities, selected personnel for assignment as legal advisers to the War Department representatives in such cases and contributed by his leadership and sound judgment to the saving of millions of man-hours in essential war production. His direction of the operation of the Branch Offices of The Judge Advocate General in the various theaters of operations greatly facilitated the processing of thousands of records of trial by general courts-martial insuring the maintenance of strict military discipline and guaranteeing to each soldier throughout the same fundamental protection provided by the American legal system. Under his direction, legislation was prepared...
and sponsored broadening the basis for the recognition and payment of personnel claims to all military and civilian personnel of the War Department, and thousands of these claims were speedily settled. In addition, a vast program of legal assistance was administered. All of this contributed much to the morale of our armed forces. The outstanding manner in which General Green performed these distinguished services reflects great credit upon himself and the military service.

**LEGION OF MERIT**

For: Exceptionally meritorious conduct in the performance of outstanding services.

Myron C. Cramer, Major General, The Judge Advocate General, United States Army, 3717 Fordham Road, N. W., Washington, D. C.

Edwin C. McNeil, Brigadier General, United States Army, 2728 34th St., N. W., Washington, D. C.

Arthur J. Burgess, Colonel, J.A.G.D., 14 Marion St., Quincy, Mass.


Hubert D. Hoover, Colonel, J.A.G.D., 2229 Bancroft Place, N. W., Washington, D. C.

Edward A. Levy, Colonel, J.A.G.D., 77 Pennington Ave., Passaic, N. J.

Earl S. Patterson, Colonel, J.A.G.D., 411 W. 5th St., Los Angeles, Calif.

Oscar R. Rand, Colonel, J.A.G.D.

B. Franklin Rizer, Colonel, J.A.G.D., 95 East 1st North St., Salt Lake City, Utah.

Eugene Ferry Smith, Colonel, J.A.G.D.


John W. Bonner, Lieutenant Colonel, J.A.G.D., 1132 Breckenridge St., Helena, Mont.

Robert R. Bowis, Lieutenant Colonel, J.A.G.D., 3503 Rodman St., N. W., Washington, D. C.


Aldo H. Loos, Lieutenant Colonel, J.A.G.D., 5248 Olive St., Kansas City, Mo.

Wallace W. Orr, Lieutenant Colonel, J.A.G.D., 425 S. Hurst St., Chicago, Ill.


**BRONZE STAR**

For: Meritorious service in connection with military operations.

Edwin C. McNeil, Brigadier General, United States Army, 2728 34th St., NW, Washington, D. C.


Douglas F. Kiechel, Colonel, J.A.G.D., Nelso, Nebraska.


John W. Astry, Lieutenant Colonel, J.A.G.D., Scarsdale Chateau, Scarsdale, N. Y.


Harold T. Patterson, Lieutenant Colonel, J.A.G.D., 245 Nacooche Drive Northwest, Atlanta, Georgia.


Francis J. Gallo, Major, J.A.G.D., 1504 Ferry St., Easton, Pa.


David S. Meredith, Jr., Major, J.A.G.D., 822 Charlotte Drive, Longview, Texas.


Frank McManus, Jr., Major, J.A.G.D., Box 472, Las Vegas, Nevada.

Charles E. Shaver, Major, J.A.G.D., 808 W. 22½ St., Austin, Texas.

Benjamin R. Sleeper, Major, J.A.G.D., 810 North 12th St., Waco, Texas.

Edward L. Stevens, Jr., Major, J.A.G.D., N. Court St., Delhi, N. Y.


Guy E. Ward, Major, J.A.G.D., Belleville, Kansas.

Frank R. Bolte, Captain, J.A.G.D., Box 443, Liberty, Pa.

Harold H. Emmons, Jr., Captain, J.A.G.D., 1130 Holcomb Ave., Detroit, Michigan.

Charles Sapp, Captain, J.A.G.D., 4509 San Jacinto, Houston, Texas.

William D. Sporborg, Jr., Captain, J.A.G.D., 8 Hower Ave., Port Chester, N. Y.

John Wiegel, Captain, J.A.G.D., 600 Jean St., Oakland, Calif.
THE FIRST period of the life of BOJAG-MTOUSA (as reported in "The Judge Advocate Journal" Vol. II, No. 1, March, 1945, page 46, "Two Years of Achievement in MTO") did not include the time of its greatest activity. The month of January 1945 saw the peak of its incoming cases. In that month 866 records of trial by general or martial were received of which 149 were Board of Review cases and 720 of the Military Justice category. Carried over from 1944 were 23 Board of Review and 28 Military Justice cases. Pending at the close of January were only 80 Board of Review and 132 Military Justice records. Cleared during that month were 92 Board of Review cases and 616 Military Justice records—the largest month, in all respects, in the history of the office.

February 1945 also saw an extraordinarily large amount of work received and disposed of, with 72 Board of Review and 470 Military Justice cases received. At the close of that month, there were only 70 records pending before the Board of Review, and 46 carried over in the Military Justice Division. Thereafter the incoming work gradually declined month by month.

During this period of greatest activity the assigned personnel remained at about the same level. In January 1945, some legendaries never fully disclosed to others in the organization, Colonel Hubert D. Hoover, JAGD, the Assistant Judge Advocate General in charge of the Branch Office and his executive officer, Lieutenant Colonel Mortimer R. Irion, JAGD, obtained more commodious and comfortable quarters in a modern bank building. These facilities greatly expedited the work of the office. Another factor contributing largely to the efficiency of the personnel was the general disinterest in the City of Naples which caused all hands to devote their first and best interests to their work.

The first six months of 1945 saw the trend of cases continue the same as to type. Offences of purely a military nature as well as crimes of violence—murder, rape, robbery, assault—continued to furnish the majority of cases received. The cessation of combat and V-E day presence in the theater area retarded the early closing of the office. Colonel Hoover departed the Theater on 15 May 1945 for the United States expecting to return. Colonel Ellwood W. Sargent, JAGD, was relieved as Chairman of the Branch Office and assumed the functions of Acting Assistant Judge Advocate General. During the subsequent period the Board of Review consisted of Lieutenant Colonel Irion, Major Cicero C. Sessions, JAGD and Major Henry C. Remick, JAGD. In June, 1945, Lieutenant Colonel John H. McGeehe, Jr., JAGD, Chief Military Justice Division, and Lieutenant Colonel Irion received the Bronze Star decoration for their outstanding work in the Branch Office.

It was also learned in June that Colonel Hoover had been given an important assignment in MTO and would not return to Italy. Orders were received indicating that upon deactivation of BOJAG-USAFPOA, Brigadier General James E. Morrisey, USA, would become Assistant Judge Advocate General in charge of BOJAG-MTOUSA. General Morrisey arrived and assumed his new duties on 15 July 1945. On that date Colonel Sergeant resumed his former post as Chairman of the Board of Review.

It was also learned about this time that the Theater Commander had directed that Colonel Hoover be decorated with the Legion of Merit. The citation, which is an integral and important part of BOJAG-MTOUSA history, reads as follows:

"HUBERT D. HOOVER, 07924, Colonel, Judge Advocate General's Department, Branch Office Judge Advocate General for exceptionally meritorious conduct in the performance of outstanding services in the Mediterranean Theater of Operations from 20 July 1943 to 16 June 1945. As Assistant Judge Advocate General in charge of the Branch Office of The Judge Advocate General with the Mediterranean Theater of Operations, Colonel Hoover demonstrated outstanding efficiency in the direction and formation of policies, and supervision of the rendition of opinions in the Branch Office of the Judge Advocate General. Colonel Hoover's legal skill, great energy, sound judgment, avoidance of immaterial technical considerations, and knowledge of military law and disciplinary problems in the field contributed in an exceptional and outstanding degree to the efficiency and fairness of the administration of military justice in the Mediterranean Theater and to the prompt and effective punishment of crime. Entered service from California."

During August 1945, Master Sergeants Olive A. Heiber and Mary J. Livingston, WAC, also received the Bronze Star for their work in BOJAG. In September the last of the original WAC detachment left for home on the first voyage made by the Italian SS Vulcana as a troopship carrying American troops.

During General Morrisey's tenure, the work continued to diminish in direct proportion to the speed of redeployment and departure and inactivation of general and court-martial jurisdiction. Type of offenses common during the months of combat, such as misbehavior before the enemy, disobedience and desertion to avoid hazardous duty, became rarities on the docket. Cases involving absence without leave and crimes of violence continued to furnish a large part of the work which also included numerous cases involving black market activities of military personnel. Only 79 cases were received in September 1945, 17 for the Board of Review and 62 for Military Justice Division. The end inevitably was near. The greatest subject of conversation during this last, or "dehydrating" period, was the well-known "point" system, as affecting all ranks.

During the summer commissioned and enlisted personnel availed themselves fully of the numerous trips afforded for "rest and recreation." Cairo and the Holy Land received their quota of peripatetic JAs. The sands of the Lido of Venice supported resplendent figures of warriors of the quill and sword. Many followed the footsteps of Hannibal and Napoleon in the Swiss Alps. Milan, Florence, Rome, Capri, Sorrento, Pompeii, all received their quota. The wrapping and mailing of packages to loved ones at home also reached unprecedented heights. Finally, early in October word was received of inactivation and departure. BOJAG would inactivate at 2400 Z. 31
October 1945, its work and jurisdiction to be absorbed by BOJAG-USFET.

General Morrine departed the Theater on 25 October 1945. Upon deactivation, the personnel of the office and their assignments were as follows:

- Colonel Elwood W. Sargent, JAGD, Acting Assistant Judge Advocate General.
- Lieutenant Colonel Mortimer R. Irion, JAGD, Executive Officer.
- WO (jg) Paul Gorin, AUS, Administrative Officer.
- Board of Review:
  - Major Cicero C. Sessions, JAGD
  - Major Henry C. Remick, JAGD
  - Captain Harold V. Hufston, JAGD
- Military Justice Division:
  - Major Clarence C. Sessions, JAGD
  - Major Henry C. Remick, JAGD
  - Captain Harold V. Hufston, JAGD
- WO (jg) Paul Gorin, AUS, Administrative Officer.

Colonel Sargent, Lieutenant Colonel Irion, Major Remick and Mr. Gorin were slated for passage home and termination of their military careers. The remainder of the personnel were still available, due to insufficient points, for other assignments overseas.

Thus ends the story—one of hard unremitting work for long years. During its existence, from 8 March 1945 to 31 October 1945, BOJAG received a grand total of 7,628 records of trial, of which 1,185 were for the Board of Review and 6,443 for the Military Justice Division.

As his final act, the last chairman of the Board prepared for transmission to the chairman of the senior Board of Review in BOJAG-USFET, with appropriate comments, the spirit of the Board, a grimacing mask of plaster, which, legend has it, smiles when a case is "hustled." Its docket cleared, BOJAG expired with the relief entertained by all who have served in it that its job was well done—its mission accomplished.

OUR Mail Pouch

If you wish to write to a friend in the Judge Advocate General's Department and do not know the address of your friend then do not hesitate to address the mail to care of Mil/Oil I. Baldwin, Executive Secretary, The Judge Advocates Association, National University Law School, Washington 5, D. C., and it will be promptly forwarded to him.

CORPUS DELICTI

Sirs:

I thought you might be interested in the enclosed picture of "Corpus Delicti," the M-5 van used by the Staff Judge Advocate of this command since shortly after D-Day in Normandy. In addition to the van, we used a storage tent for the balance of the office force of four officers and seven enlisted men.

The van accommodated two officers and would hold all of our supplies and office equipment on moves. It was equipped with electric lights and had its own heating and air-conditioning systems.

- Lt. Colonel, JAGD
- Staff Judge Advocate
- Hq IX Tactical Air Command

HOME AT LAST—Sirs

On a recent visit to Berchtesgaden with Colonel Charles E. Cheever, Judge Advocate of the Third Army, several interesting pictures were taken. One of these was a picture of Colonel Cheever in front of Hitler's home and I am enclosing a copy of it with the thought that it would be an interesting shot to publish in the Journal.

Colonel Cheever served as General Patton's Judge Advocate throughout the European operations.

LEON JAWORSKI

War Crimes Branch

Colored, JAGD

C. S. Army, APO 633
Judge Advocate Rescues Son from German Prison Camp

ORD FROM the Branch Office of The Judge Advocate General, European Theater, tells how Lieutenant Edwin R. Bentley, Jr., from a German Prison of War Camp at Moosburg, Germany. The story follows, in Colonel Bentley's words:

"My son, 1st Lieut. Edwin R. Bentley, Jr., a 20-year-old Soldier of the 437th Bomb Group stationed at Hamilton Field, Missouri, had been a prisoner of the Gestapo since May 21, 1943. He has been in Germany since then, in the hands of the Gestapo and in the German Army, where he was apparently being interned at Moosburg.

"At the present time, as far as we know, my son has been moved to a new camp, one at Luckenwalde, and the three of us, my wife and I, have not been able to correspond with him. The only way we have of communicating with him is through the International Red Cross, which is the only agency recognized by the Gestapo and the German Army as conducting correspondence with prisoners of war. We have not heard from him since the last letter we received from him, which was written in late September, 1943.

"Of course, we cannot tell you exactly what is going on in this situation, but we do know that my son has been in the hands of the Gestapo for some time. We are concerned about his safety and welfare, and we hope that he will be released as soon as possible."
General Cramer Honored at Banquet

Over three hundred Judge Advocates and honor guests attended a dinner at the Mayflower Hotel in Washington on the evening of 6 November, honoring Major General Myron C. Cramer, retiring Judge Advocate General. Seated at the speakers' table were Honorable Robert P. Patterson, Secretary of War, Honorable Tom C. Clark, Attorney General, Honorable Kenneth C. Royall, Under Secretary of War, Major General Lewis B. Hershey, Director of Selective Service, Rear Admiral Thomas L. Gatch, Judge Advocate General of the Navy, Brigadier General Thomas H. Green, Deputy Judge Advocate General, and General Franklin L. Cope, who succeeds General Cramer as The Judge Advocate General, and Brigadier General John M. Weir, Assistant Judge Advocate General, London.

The date was the birthday of General Cramer, who retires from the Army on 30 November. The committee on arrangements for the occasion included General Weir, Chairman, Colonel Almer E. Lipscomb, Colonel William H. Beck, Jr., Colonel Thomas E. Sands, and Major Clarence L. Yaney.

Directory of Members of J.A. Association Planned

Plans are under way for the publication and distribution of a directory of members of the Judge Advocates Association and membership in the Association will entitle each Judge Advocate to a copy. Tentative arrangements are for listings of individuals by States and Cities, giving date of birth, date of graduation from law school or admission to the bar, business address, name of law firm, if any, and data as to service in the Judge Advocate General's Department. Plans call for a revision of the directory from time to time in order to keep it current. The assembling of the data has been undertaken by the General's Department. Plans call for a direction of the data to service in the Judge Advocate General's Department. Plans call for a revision of the directory from time to time in order to keep it current. The assembling of the data has been undertaken by the Editors of the Judge Advocate Journal. The directory will list only those Judge Advocates who are members of the Association in good standing.

Colonel Kidner is Acting President, Lt. Colonel Cope, Treasurer, of Judge Advocates Association

During the absence of Colonel Howard A. Brandjude, President of the Judge Advocates Association, who is in Germany on the staff of Mr. Justice Robert H. Jackson, Colonel Herbert M. Kidner, Assistant Air Judge Advocate and senior Vice President of the Association is the Acting President of the Association. Under the supervision of Colonel Kidner, ballots for the election of officers and certain directors of the Association have been mailed to members. Space is provided for the writing in of names of additional candidates. The annual membership meeting will be held in Washington, D.C. on Friday 28 December 1945, at which time the ballots will be counted. An additional thirty days will be allowed for members overseas in which to submit their ballots and the results of the election will not be announced until 28 January 1946.

Lt. Colonel Lee H. Cope, who succeeded Colonel Robert M. Springer as Treasurer of the Association, is on duty in the Military Justice Division, Office of The Judge Advocate General, Washington 25, D.C. Colonel Cope announces that membership dues for 1946 were payable 1 December 1945. Members may be dropped from the rolls of the Association after ninety days from that date for nonpayment of dues.

Colonel Avery Named President of Contract Appeals Board

The Secretary of War on 22 September 1945 named Colonel Joseph A. Avery, J.M.G., President of the War Department Board of Contract Appeals, succeeding Colonel Hugh C. Smith, J.M.G., who is on terminal leave. Colonel Avery, a native of South Bend, Indiana, is a graduate of the University of Michigan Law School and prior to entering on active duty was the City Judge of South Bend. He has been a member of the Board of Contract Appeals since 26 May 1935. He is a member of the Board of Directors of the Judge Advocates Association.

Colonel Smith, a Regular Army officer, was retired on 30 April 1945 but was called to active duty on 18 July 1940 for assignment to the Office of the Under Secretary of War. For his outstanding work as President of the Board of Contract Appeals Colonel Smith was awarded the Legion of Merit by Secretary Robert P. Patterson. A native of Missouri, Colonel Smith is a graduate of the University of Michigan and the American University, Washington, D.C. He advanced through the different grades to colonel in the Judge Advocate General's Department on 1 May 1951.
THE JUDGE ADVOCATE GENERAL'S SCHOOL

By Captain George P. Forbes, JAGD

THIS report of activities at the Judge Advocate General's School covers the period from 19 May to 30 November, a longer period than any of our previous reports and consequently some of the events referred to may be somewhat akin to ancient history to those who have been in close touch with the School.

During the time under discussion, 306 officers have been graduated from the School as follows: On 21 July, 55 in the 23rd Officer Candidate Class; on 22 September, 47 in the 24th Officer Class and 55 in the 13th Officer Candidate Class; on 20 November, 73 in the 25th Officer Class and 35 in the 14th Officer Candidate Class.

Because of the fact that it marked the occasion of Gen. Cramer's last official visit before his retirement on 30 November, we turn first to a discussion of the most recent graduation on 20 November. As has been traditional, graduation speakers were Gen. Cramer and E. Blythe Stanon, Dean of the Law School of the University of Michigan. After Gen. Cramer, as has been his custom, personally bestowed certificates on each graduate at the end of the scheduled ceremonies, Col. Reginald C. Miller, School Commandant, presented the retiring Judge Advocate General with an honorary certificate of graduation 20 inches by 14 inches, hand drawn in blue and gold color with the School seal thereon. Mrs. Cramer was on hand to see the presentation which had been planned unknown to the recipient. The printed banquet program of the graduation classes was dedicated to Gen. Cramer and contained his latest photographic portrait as well as Law Quadrangle scenes. The remaining and successful members of the 14th Officer Candidate Class were sworn in as second lieutenants by Col. Miller at the graduation parade on 19 November. Lt. Col. Richard B. Tibbs was Battalion Commander for the parade and 1st Lt. Robert B. Guerrito was Battalion Adjutant.

Changes in the personnel of the School staff and faculty continued to occur during the period of this report. Lt. Col. Jeremiah J. O'Connor was relieved of his assignment as Executive Officer at the end of August so that he might accept a position on the staff of Col. Edward H. M. O'Connor, Commandant of the Command and General Staff School of the University of Minnesota. As has been his practice the Commandant nominated the officer to whom he wished to assign the responsibilities of the position of the Executive Officer. Capt. Bernard W. Alden, Maj. John H. Finger, and Capt. Harry J. Pasternak were assigned to the office of Maj. Alden.

Maj. Alden's successor, Lt. Col. John Ritchie III, was appointed Executive in January 1945. Maj. Alden had been in close touch with the School.

Additions to the staff during the period under discussion were two. Lt. Col. John Ritchie III, Staff Judge Advocate for the 65th Infantry Division, with service in active duty in March 1941 and served with the Air Corps as a judge advocate, with the Coast Artillery Corps as battalion adjutant and battery commander, and over 15 months with the Judge Advocate General's Department, including a tour of duty in the office of the Judge Advocate for the Mediterranean Theater of Operations, part of which time he was chief of the Military Justice Section. He is a partner in the firm of Ammeny, Alden and Van Cleve, Kansas City, Kan. Capt. Wright W. Brooks, assistant director of the Military Affairs Department, was named Director upon the departure of Maj. Alden.

Maj. Finger, one of the oldest members of the staff and faculty in point of service here, was retained on the staff after completing the course with the 5th Officer Class in November 1942 and he became Director of the Military Justice Department in May 1945. Maj. Finger has been assigned to the office of Col. Clifford M. Olivetti, Judge Advocate for Gen. MacArthur, and will be stationed somewhere in Japan. In civilian life he practices law in Oakland, Calif.

Capt. Pasternak is a graduate of the 2nd Officer Candidate Class and later attended the Army Finance School at Duke University. He was on duty with the Norfolk (Va.) Engineer District when he was assigned to the Contracts and Readjustment Department here in April 1944. Capt. Pasternak was transferred to the Renegotiation Division at Headquarters, ASF, and in civilian life practices law in New York City.

Capt. Verney, Acting Director of the Contracts and Readjustment Department, went to the office of the Army-Navy Liquidation Commission in Washington. Since that time Capt. Verney was relieved from active duty upon the ground of hardship. Before coming to Ann Arbor as a student in the 3rd Contract Termination Class, Capt. Verney was Chief Purchasing and Contracting Officer at ASF-TC, Camp Gordon Johnson, Fla. He engages in the practice of law in Newark, N. J.

Capt. Wood, a Finance Department officer, had previously served as a member of the staff and faculty of the Army Finance School prior to his tour of duty in Army Service Forces when he reported in August 1944. He was assigned to the Philadelphia Depot to assist in the fiscal aspects in the termination of contracts and other problems of readjustment. In civilian life he is a certified public accountant with the firm of Price, Waterhouse Co. in New York City.

Upon graduation with the 4th Officer Candidate Class in March 1944, Capt. Roth was retained on the staff and faculty for duty with the Contracts and Readjustment Department. He was transferred to the Renegotiation Division, ASF, and since that time moved again, this time to the Office of the Procurement Judge Advocate. In civilian life he practices law in New York City.

Additions to the staff during the period under discussion were two. Lt. Col. John Ritchie HI, Staff Judge Advocate for the 65th Infantry Division, with service in

Page 36
this country and in France and Germany, was named Director of the Military Justice Department to replace Maj. Finger. A graduate of the 5th Officer Class here, Col. Ritchie is a professor of law at the University of Virginia and assistant dean of the Law School. He has also been an instructor at the Law Schools of Furman University, the University of Washington and the University of Maryland, and prior to entering the Army he was principal attorney for the Board of Economic Warfare. He is a graduate of the University of Virginia Law School and has a JD degree from Yale Law School.

To assist in inspecting the School, chatting informally with members of the staff and faculty and reviewing the School battalion, the School was honored by a visit from Col. Clifford M. Olivedi, Judge Advocate for Gen. Eisenhower, in October from the International Law Division of the Judge Advocate General's office where he had been on duty since graduation. A graduate of Middlebury College and the University of Pennsylvania Law School, Lt. Rhoda practices law in Reading, Penna. From 1934 to 1938 he was a special deputy attorney general for the Commonwealth of Pennsylvania. As an enlisted man, Lt. Rhoda served seven months in the office of the Staff Judge Advocate in the South Atlantic.

The third annual Judge Advocates Conference which was held in the latter part of May has already been described in the previous issue of the Journal so that this mention will suffice. As an historical item, it should be noted that the School publication, THE ADVOCATE, began its third year in June.

Civilians personnel of the School were cited in July by the Secretary of War for their purchase of war bonds through the Army Pay Reserve Plan. Minimum requirements for the award are a percentage of 95 per cent of civilian employees at an installation investing at least 15 per cent of the total monthly payroll. The record of Judge Advocate General's School employees was 100 per cent participation and a total monthly payroll contribution of 17.38 per cent. In recognition of this achievement the Secretary of War's War Bond Flag was presented at a formal ceremony on 11 August and displayed thereafter on the School flag pole.

Of course, the news of the surrender of the Japanese forces was noisily greeted here on 14 August and a special salute was fired by "Old Hateful," the School cannon, with students and civilians looking on in the Law Quadrangle. As all classes were cancelled by the University Board of Regents on 15 August, the School followed suit by suspending all Army training schedules for that day.

The second of September was the third anniversary of the School in the Law Quadrangle. A day or two before, the School was honored by a visit from Col. Clifford M. Olivedi, Judge Advocate for Gen. MacArthur, who inspected the School, chatted informally with members of the staff and faculty and reviewed the School battalion.

When it became evident that the special courses in Contracts and Readjustment, which were suspended in March with the graduation of the 9th class, would not be resumed, School departments were reorganized so as to combine claims and contracts in a department known as the Claims and Contracts Department headed by Lt. Col. Willard A. Stewart who had been Director of the Civil Affairs Department. At the same time a new department known as the International Law Department was organized with Maj. Morris Zimmerman as Director. The International Law Department is responsible for

instruction in the subjects of the law of land warfare and the law of belligerent occupation.

It was announced by Col. Miller in September that the training program of the Judge Advocate General's School at the University of Michigan would cease at the end of January when the 15th Officer Candidate Class and the 26th Officer Class were scheduled to graduate. Later, a non-scheduled class of officers was detailed for instruction on 3 November and will graduate on 22 December. This class has become known as the 21st Officer Class so that the last officer class to be trained here and which will report on 7 December will be known as the 22nd Officer Class and will graduate with the 15th Officer Candidate Class.

Since this was written, orders have been received directing your correspondent to proceed to a Separation Center, arriving on 3 December. Accordingly, it is fitting to use this space to say farewell to our readers, and to note that the practice of law at White Plains, N. Y., will henceforth occupy our time.

WASHINGTON NEWS AND VIEWS
(Continued from Page 15)

Colonel Brannon Named Procurement Judge Advocate

Announcement has been made of the appointment of Colonel Ernest M. Brannon, JAGC, as the Procurement Judge Advocate effective as of 17 November 1945. Until recently, Colonel Brannon was the Judge Advocate of the First Army in Europe and prior to that assignment was the Contracts Coordinator and Chief of the Contract Division, Office of The Judge Advocate General. The office of the Procurement Judge Advocate was recently created in Headquarters, Army Service Forces to handle legal matters in connection with procurement and related activities.

Page 17
The following is a collection of notes culled from the columns of THE ADVOCATE, bulletin of THE Judge Advocate General's School, concerning the activities of members of the Department who are alumnus at the school.

2d OFFICER CLASS

Appearing in civilian studies at the Michigan-Michigan State football game recent was discharged Col. D. Z. Ide of Berrien, Col. M. was Staff JA at Salty and served on Boards of Review in Washington, Italy and Abilene.

3d OFFICER CLASS

Lt. Col. J. H. Johnson has moved again, this time it looks as if he will land in Tokyo as he has been assigned Division JA of the 27th Infantry Division. He was formerly on duty with the Tenth Army.

Lt. Col. Edward S. Hengstlil has been relieved from active duty. Lt. Col. B. Keasch sends us a change of address from Headquarters, SAFCTC, Randolph Field, Tex., where he was Staff JA after a lengthy tour of duty in the Pacific. His new address is that of a civilian at Roosevelt Apartments. Spokane, Wash.

4th OFFICER CLASS

Col. Harold A. Brumley is one of the many JAGs engaged in war crimes work at Nuremberg, Germany. He revealed that no two of the major defendants are in adjoining cells. They are spaced almost out of shouting distance of one another, he said, to guard against attempts at collusion in preparing defenses.

Lt. Col. Byron R. Brown has been relieved from active duty. Col. Bowman was Staff JA with the 106th Infantry Division through the campaigns in Europe.

Lt. Col. Earl Craig has been assigned to Headquarters, Continental Air Force. He was formerly at Wright Field, Ohio.

5th OFFICER CLASS

Col. Ralph G. Bode, Chief of Claims Division, JAGO, is author of an article, "War Department Claims," in the Federal Bar Journal for July, 1945. The article deals profitably with the administrative settlements of claims of a tort nature against the Government and for non-combat activities of the WD or the Army.

Lt. Col. Kenneth S. Seabrook writes that he is acting executive officer for the War Crimes Branch in the JA Section for General Headquarterstries in the Pacific.

Lt. Col. Charles A. Weaver writes from Europe where he is JA for the 4th Armored Division as a permanent occupational duty.

Lt. Col. Dave K. Bray has been relieved from JAGOR, San Francisco Port of Embarkation and transferred to Fourth Headquarters and the 4th Armored Division on permanent occupational duty.

Lt. Col. Andrew B. Kane has been transferred from the JAGO to assignments with the Military District of Washington.

6th OFFICER CLASS

Lt. Col. Clarence O. Tompkins has an overseas APO. Lt. Col. Joel Diamond has been relieved from active duty.

Maj. Marvin W. Longinburg is Staff JA at the IRC, Camp Robinson, Ark. His address is Capt. Duncans, L. McRae (6th OC).

7th OFFICER CLASS

Maj. James L. McCarty is in the Ryukyu assigned to Army Service Command in the JA Section.

Maj. Robert W. Anderson is now on duty at Los Angeles Port of Embarkation.

Maj. John R. MacNaught is Staff JA for the 90th Infantry Division which is located for the far Pacific. The 90th is one of the divisions supported by Geo. Douglas Mustang for occupational duties.

Assist Staff JA is Capt. Wacqert, C. Cover (7th OC).

Lt. Col. William B. Kolsch has been relieved from assignment and duty overseas and is now on duty in JAGO with a Board of Review.

8th OFFICER CLASS

Lt. Col. Richard K. Gurney is on duty at the Central Procurement District, Detroit, Mich.

Capt. Gerald L. Swearer reports that he has moved from the Paris office of the Theater JA, USFET, to Frankfurt on Main, Germany, where he continues to be busy as Assistant Staff JA on General Eisenhower's staff.

Maj. Robert Pastner has been named chief of the facilities contracts unit, industrial facilities section, procurement division, ATSC, Wright Field, Ohio.

Col. William L. Doolan has been relieved from duty at the office of the JA at Wright Field, Ohio, and has been assigned to United States Forces in the Burma-India Theater for duty with the AAF Burma.

9th OFFICER CLASS

Capt. Henry A. Federle is on duty at the Gleenrane Branch, Army and Navy Munitions Board, Washington, D.C.

Capt. Bernard S. Barr has been relieved from active duty.

Maj. John N. Calhoun has been assigned to the legal department of ANLC for AMET-PEC at Cairo, Egypt, writes from Ankara, Turkey, where he is at present doing some liquidating of surplus property.

"Ankara is a very nice place to be stationed, but there are no Army installations here—not even a PX nor an APO—so everything is on your own except for such aid as the Embassy is able to furnish. Everything is frightfully high—55 cents for roast and coffee and $1.50 to $4.00 for an ordinary-to-good meal."

Col. Frederick F. Greenman was recently appointed general counsel to the Army-Navy Liquidation Commissioner.

Col. James E. Price has been relieved from active duty as of 15 September. Col. Price served more than two years as Staff JA for the Air Transport Command, now in India and was awarded the Bronze Star Medal for his service. He is a Michigan circuit court judge.

10th OFFICER CLASS

Maj. William J. Carrier has been transferred from JAGP, Snedd Service Command, to Office of Chief of Engineers, Washington, D.C. He recently returned from a lengthy tour of duty in the Axis.

Maj. Carl J. Otto is Staff JA at IRTC, Camp Funston, Tex.

Maj. James A. Lee is on duty at the JA office, Freytag Division, ATSC, Cincinnati, Ohio.

Maj. Denio L. Felghuler is JA at Base "M" in the Philippines. He has been overseas almost two years.

Capt. William J. Millard writes that he is Staff JA for the 35th Infantry Division, having been transferred from the assistance post for the 4th Infantry Division. He believes that he will go on to Japan for a few months.

Maj. Lansing L. Mitchell's address has been changed again and now he is at the JA Section, Army Section, Hq. USFET.

Lt. Col. G. L. G. Price writes that he is Staff JA for the Air Transport Command now in India and was awarded the Bronze Star Medal for his service. He is a Michigan circuit court judge.

11th OFFICER CLASS

Maj. Adron L. Brown, Jr., is Legal Officer at March Field, Calif., Maj. Richard H. Porter is Staff JA at Fort Knox, Ky.

12th OFFICER CLASS

Lt. Col. Paul W. Bowman has been relieved from active duty and has returned to his civilian post as a lawyer and dean of the law school at Tulane University.

Lt. Col. Gentry Lee writes that he is a civilian returned to the practice of law in Tulsa, Okla., with his firm, Kel. L. Philip, Campbell and Linton.

Lt. Col. Edward S. Hemphill has been relieved from active duty.

Col. John J. Campbell and Latting, He was separated from the service on 27 July, after a lengthy tour of duty in the Pacific. His residence is '011 Your own' except for such aid as the Embassy is able to furnish.

Lt. Col. Earl Craig has been assigned to Headquarters, Continental Air Force.

Col. Howard A. Brundage is one of the many JAGs engaged in the campaigns in Europe.

Lt. Col. George W. Smith has been named chief of the, Air Corps and antiaircraft really knocked them down," he relates, "A few hundred V-2's in England and about a three-month stop-over in Saint Louveciennes, near Paris, France, I returned to the States With the 4th Armored Division, having been transferred from the assistance post for the 4th Infantry Division. He believes that he will go on to Japan for a few months.

Lt. Col. G. L. G. Price writes that he is Staff JA for the Air Transport Command now in India and was awarded the Bronze Star Medal for his service. He is a Michigan circuit court judge.

13th OFFICER CLASS

Lt. Adron L. Brown, Jr., is Legal Officer at March Field, Calif., Maj. Richard H. Porter is Staff JA at Fort Knox, Ky.

14th OFFICER CLASS

Lt. Col. Paul W. Bowman has been relieved from active duty and has returned to his civilian post as a lawyer and dean of the law school at Tulane University.

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which had a total strength of about 15,000 military and civilians personnel, were widely scattered over England and France, which entailed considerable traveling to assist wing and group commanders in a myriad of matters pertaining to claims, military justice, miscellaneous military affairs, and legal assistance, when we could be spared from the command headquarters.

Col. Stokes V. Robertson writes that he is Staff JA at Camp Stoneman, Calif., a staging area for a port of embarkation.

Capt. Parker D. Hancock is in the office of Col. Edward H. Young, Theatre JA for the China Theater, Chungking.

Lt. Col. Robert W. Wilson writes from Austria that he has been assigned to the headquarters of the 21st Infantry Division. Prior to this new assignment he was assistant staff JA at the 3rd Armored Division, later assistant JA, and then was transferred to the 3rd Division. He was demobilized from Wright Field, Ohio, to his permanent station, after completing the School Course, only to be summoned shortly thereafter to Headquarters, Eighth Fighter Command.

Maj. Thomas A. Brennan is on duty with the 16th Armored Division, of Fourth Air Force, Office of the Staff JA, San Francisco, Calif., a staging area for a port of embarkation.

Lt. Col. Robert E. Richter is staff JA at the IARTC, Camp Rucker, Ala.

Maj. W. Stanley Dolan is executive or the JA Section or the 68th Division, Pacific Division, ATG, somewhere in the Pacific.

Capt. Charles T. Bloodworth has been relieved from active duty in Washington, D.C., and assigned to the Separation Center, Camp Chaffee, Ariz.

Capt. Robert G. Peltsch has been transferred from Headquarters, Tenth Air Force, at Colorado Springs, Colo., to JAGO. He was formerly stationed in Saipan, Mariana Islands.

Capt. Charles P. Gotwals, Jr., is assigned to the JA Section at Headquarters, Pacific Defense Command, at Tokyo, Japan, and assigned to the Separation Center, Camp Chaffee, Ariz.

Lt. Col. Robert E. Richter writes that he is staff JA at JAGO.

Maj. Zingler writes that he has been assigned as assistant Staff JA for the 10th Infantry Division. Prior to this assignment he was assigned as assistant JA to the Theater Office to head the trial section of war crimes. For several months Maj. Zingler was assistant CID of the 83rd Infantry Division, later assistant JA, and then was transferred to the 2nd Infantry Division in France.

Maj. Thomas G. Bona is the division JA at Marianske Lame, Czechoslovakia. He has general court-martial jurisdiction over thirteen Army Air Force units ranging from Austin, Texas, up to Allentown, N.Y., and as far south as Fort Bragg, N.C.

Maj. Albert B. Chipman has been transferred from the JAGO to the office of the Under Secretary of War.

Capt. John T. Booth, Jr., sends pictures from Liberia where he is staff JA, shooting his wiring with a Force Master (mayor), The Country Devil and the Village Judge.

Capt. Eugene W. Beers is on duty at the Bench Office, Theater Class Service, in the India-Burma Theater. Capt. Beers was formerly stationed in Saipan, Mariana Islands.

Maj. Joseph F. Bonnin has been relieved from active duty. He served with the JAGO.

Capt. James L. Brown is on duty at Provisional Headquarters, AAF, Middle Pacific.

Capt. Frederick V. Smith, AG, writes that he has cleared stations again, moving from India to Okinawa. He flew the Hump from India to China, to the Philippines and on to Okinawa where he is now stationed.

Capt. Patricia J. Felley has been transferred to Separation Center, Fort Monticello, New Jersey.

Capt. Clarence M. Werner has been relieved from active duty in Washington, D.C., and assigned to the Separation Center, Camp Chaffee, Ariz.

Maj. W. Stanley Dolan reports that he has been assigned to the JA Section at Headquarters, United States European Theater.

Maj. W. V. Davis reports from Austria that he has been assigned to the JA Section at Headquarters, United States European Theater.

Lt. John W. Peck is on duty in BOTJAG at St. Cloud, France.

Lt. Col. Robert E. Richter writes that he is Staff JA to Gen. Stilwell. He was “demobilized” from Wright Field, Ohio, to his permanent station, after completing the School Course, only to be summoned shortly thereafter to Headquarters, Eighth Air Force, Office of the Staff JA, Washington, D.C.

Lt. Col. Robert E. Richter reports that he is assignment the 7th Service Command.

Lt. Col. Robert E. Richter is staff JA at Fort Bragg, N.C.

Maj. Thomas A. Brennan is on duty at the Washington, D.C., and assigned to the Separation Center, Camp Chaffee, Ariz.
Seventh U.S. Army in Europe.

of redeployment.

Tudor V. Hampton has also been assigned there, JA with the XIII Corps, has returned from Europe, and after a welcome leave is on his way to a new station in California by way of Washington, DC, headquarters of the Ninth Service Command, Fort Douglas, Utah, and has returned to the practice of law in Minneapolis, Minn.

and will report to Fort Jackson, S.C., shortly. He was the first JAG to serve in France, Belgium, Holland, and Germany.

serves many months in the Italian campaign, to the JA Section, Headquarters, 4th OC.

writes from Pettit Barracks, Zamboanga, on the island of Mindanao.

news has been received that Maj. Robert S. Pasley, assistant Staff JA of the 11th Infantry Division, is returning to this country from Europe and is in training at Camp Shelby, Miss.

No decrease in the volume of work has followed the cessation of hostilities at Headquarters, Eastern District, ATSC, according to Capt. Theodore B. Darone, Assistant JA. The emphasis is on red- pition but some procurement continues.

Capt. John J. Kidde, Jr., has been transferred from JAGRO to JAGRP, Fort Sam Houston, Tex.

No decrease in the volume of work has followed the cessation of hostilities at Headquarters, Eastern District, ATSC, according to Capt. Theodore B. Darone, Assistant JA. The emphasis is on red- pition but some procurement continues.

Capt. Benjamin A. Smith is assigned to the JA Section, Headquarters, 3d OC.

Capt. Howard H. Conaway registers a change of address. He is at Camp Sibert, Ala.

Lt. Col. William F. Thiel is with the Boston Ordnance District and living at Wellesley Hills, Mass.

Capt. Mayer F. Bravman is on duty at the Cleveland Ordnance District.

Capt. Ralph Becker, Staff JA of the 95th Infantry Division, is now with the division on Okinawa.

Capt. Lawrence S. Schwing has been transferred from the Miami (Fla.) Engineer District to JAGRP, Fourth Service Command. Capt. Teddy W. Hampton's has also been assigned there.

With the closing of the Beach District, Normandy Base Section, the Boston Ordnance District, and the various headquarters located there. Capt. John McCrohan and 1st Lt. William C. Green are classmates on duty in the city.

Capt. Lawrence E. Fook is on an overseas assignment on temporary duty from Wright Field, Ohio.

Capt. R. F. Deacon Arledge, Staff JA for the 1st Infantry Division, returns to the Pacific, to Camp Sibert, Ala.

CAPT. RALPH BUCKER, STAFF JA OF THE 110TH INFANTRY DIVISION, IS ENSCONCED IN THE WESTERN DEPT. OF JAGRP, HEADQUARTERS, 1ST OC.

CAPT. JOHN M. NAPIER IS IN THE JA OFFICE OF THE 110TH INFANTRY DIVISION, WITH A WWII REUNION OF THE 6TH OC.

Lt. Col. Thomas A. Wheat and 1st Lt. Louis C. Geilband (7th OC) are in the office of the Staff JA at Headquarters, IX Engineer Command, with an APO out of New York.

Capt. Donald F. Schumacher writes from Headquarters, Base X, USAFWP, Purchasing and Contracting Branch in Manila, P.I., where he is assigned to the Procurement and Property Disposal Division. He reports that the JAGRO insignia is more common in Manila than any other insignia, there being many JAs working in war crimes and claims, as well as being numerous officers assigned to the various headquarters located there. Capt. John McCall and 1st Lt. Walter C. Green are classmatess on duty in the city.

Capt. Ralph Becker is now with the division on Okinawa.

Capt. William Phillips has been relieved from active duty at the Separation Center at Camp Blanding, Fla., where he will be relieved from active duty.

Lt. Col. Howard S. immature, is assistant Staff JA at Headquarters, 6th OC.

Capt. A. Frank Reel has prepared his own report and forwarded it from the Philippines to the following effect: "Capt. A. Frank Reel recently arrived in Manila, reports that a trip to the over- crowded jungle heap is like a 6th OC reunion. In Miami, Capt. C. W. St. Julien was at the Miami Ordnance District and Capt. John M. Napien is with the JA Section, 1st OC. Capt. Theodore B. Darone was transferred to the JA Office of the 11th Infantry Division, Camp Campbell, Ky. He just recently joined the 1st OC in the city. Capt. Lawrence E. Fook is on an overseas assignment on temporary duty from Wright Field, Ohio."

The emphasis is on red- pition but some procurement continues.

Capt. Theodore B. Darone, Assistant JA. The emphasis is on red- pition but some procurement continues.

Capt. Theodore B. Darone, Assistant JA. The emphasis is on red- pition but some procurement continues.

Lt. Col. Howard S. immature, is assistant Staff JA at Headquarters, 6th OC.
Capt. John Morsey has departed on a special overseas assignment from Fort McPherson, Ga.

Lt. Charles W. Leavy has returned to the Office of the JA at ATSC, White Field, Ohio, after nine months at Westover District ATSC, Los Angeles, Calif.

Capt. Russell C. Rieck, who served in the BOAG in the ETO, has been transferred to the Chaplains' School, Fort Oglethorpe, Ga.

Lt. George J. Blakeslee has been transferred from San Francisco Engineering Plaza to Headquarters, Pacific Command, Hawaii.

Mr. K. G. Rice who served in the BOAG in the ETO has been relieved from active duty to accept public office.

Capt. John H. Poindexter has been transferred from JAGRO, Headquarters, Fourth Army, to Headquarters, AAA Training Center, Fort Bliss, Texas.

Lt. George J. Blakeslee has been transferred from San Francisco Engineering Plaza to Headquarters, Pacific Command, Hawaii.

Lts. Piersoll and Hildreth have been transferred from JAGRO to the Claims Branch, Claims Division, JAGO, to the Claims Service, American Theatre, headquarters, for service in the Pacific Ocean area.

Capt. Alvin E. Kenter reports that in addition to his duties in the Claims Command, Lt. Col. E. B. Sargent, SD, has been serving as a counsel of the CGM for Wright and Patterson Fields.

Capt. William W. Williams has been transferred from the Industrial Personnel Division, Headquarters, ASF, to the Base Department Price Adjustment Board, renegotiating claims.

Capt. Thomas Ryan (7th OC), and in Hawaii at Fort Roger he exchanged gossip with Lts. Mandel and Dick. In Brisbane, Australia last one evening as Lunarus House where he quartered there was a knock on the door and Lt. Col. Morris (3rd OC) was at the door with full gear to route from New Caledonia to Manila to do claims work. Capt. Hiecht is on duty in the International Division, Headquarters, ASF, Washington, D.C.

7th OC

Lt. Arturo G. Robbs, formerly at Headquarters, Second Army, now has an assignment at San Francisco.

Lt. Virgil E. Barger has been transferred from the legal branch at the Claims Office, Army Service Forces, to the Claims Office, Army Air Forces.

Capt. J. T. Goode reports that the Courts and Claims Office, Base Headquarters, Minnedale Field, N.Y., is handling a lot of claims work.

Capt. Warren C. Reed has been transferred from JAGO to Headquarters, 88th Infantry Division, the newly organized Philippine division to the Pacific. A letter of request for Ass't JA to the 88th Infantry Division is now at Headquarters at Kunming. It is said that Assistant JA should be appointed to the 88th Infantry Division, Kunming.

2nd Lt. Harry Polikoff has been transferred from Chicago Office of the JA to the Pacific office.

1st Lt. Henry McLane is Staff JA at Fort Knox, Ky., having succeeded Lt. Col. E. B. Sargent.

2nd Lt. Preston K. Johnson has been transferred to the Armored Division, Headquarters, Eighth Service Command.

Capt. David E. Pitcher writes from Weisbaden, Germany: "Weisbaden is now the center of all 'Val' Claims work. There are plenty of GCMs here as well as lawyers from other branches of the Army.

"Ben Cooper (7th OC) is still at the Claims Command in Rhine and Al Canino (7th OC) is now pushing out these Affairs opinions at Frankfurt with USFET Hq. Lt. Col. Robert A. Foraker (9th OC) is in Paris a few weeks ago. He was down on TD helping with JAGO. Frank is with Headquarters, 88th Infantry Division in Austria."

8th OC

Lt. Russell W. Wiering in charge of the staff and faculty of the Chaplains' School, Fort Oglethorpe, Ga.

1st Lt. Robert C. Bell has been transferred from JAGO to the office of the Under Secretary War.

Lt. Lyman B. Bowman (4th OC), Staff JA of the 106th Infantry Division. He writes that the work is "voluminous and interesting. Military Justice occupies about ninety percent of the time."

Lt. George A. Kepple reports that his assignment in the Labor Branch of the Industrial Personnel Division in ASF Headquarters is one he finds most interesting. He sees in labor officers in Army movements of war plans, and in an office in helping to run a small textile mill in Germany.

Lt. Jack Ridgeon is now in the JA Section, Headquarters, 9th Service Command.

Lt. Charles J. Krider has been transferred from Manila where he has been stationed since April to the Claims Service, WEPS/EPAC. As his new classmates he makes the following report. "We're doing a fairly good job in the Claims Section. There are plenty of GCMs here as well as lawyers from other branches of the Army.

"J-J Day hasn't made too much difference in our work as we are still hard at it. Bob Phelps of the 6th OC who was a non-com with me in an advanced division when we came into the Army almost three years ago is my right hand neighbor and Bill Ackerman of the 7th OC is on my left."

9th OC

Lt. Thomas Gregory, Lt. Thomas Mays and Gerald O'Hara arrived in Paris on 25 June and have been on duty at HOFFAP since.

Lt. Robert J. Stanley is assigned to Requirements and Store Compliance Division, Headquarters, ASF, The Pentagon.

Lt. Mel. A. Barnes has been transferred from the JAGO to Headquarters, Fourth Service Command.

Lt. Ralph C. Smith is assistant Staff JA at Provisional Headquarters, AAF-2 Air Force in the Middle Pacific.

From Rheims, France, 2nd Lt. Jack Wilson writes that he has been transferred from Headquarters, Assembly Area Command, JA Section to Headquarters, 4th Provisional Service Command.

While attending meetings in Paris last month he attended a JAG party at the Hotel Napoleon, Boulogne, N.Y.

10th OC

Lt. Charles N. Nelson is assigned to the Claims Branch, Claims Command, ASF, USCAGG, to the Claims Service, 10th OC, as Staff JA. He is on duty in the Claims Section, Headquarters, ASF, Washington, D.C.

Capt. John D. Hefker at the moment is out on lend-lease to a branch in Caledonia to Manila to do claims work.Lt. Col. E. B. Sargent is still hard at it. Bob Phelps of the 6th OC who was a non-com with me in an advanced division when we came into the Army almost three years ago is my right hand neighbor and Bill Ackerman of the 7th OC is on my left."

11th OC

Lt. Joseph Carmody is assigned to Headquarters, First Service Command, Boston, Mass.

Lt. Clinton H. Van Valkenburg writes that he is assigned to the Education Division, Headquarters, ASF, as legal reviewer, reviewing foreign claims, and done research on special Philippine problems. Recently he was made chief, "Chief of the Claims Section," of the newly designated Philippines branch in which he is the only officer; he draws a "one-man staff." Matters dealt with include factual and legal research in procurement and regulation claims whose government records are lacking or incomplete.

Lt. Edward H. Kepple reports a change of assignment from Stated Service Command returned to Headquarters, ASF, Washington, D.C.

2nd Lt. Charles M. Morison is on duty at Claims Service, American Forces in the Western Pacific Area, Philippine Islands.

1st Lt. Lynn Gillard is on duty at SOS Headquarters, Kunming, China.

Lt. Preston R. Hitchen says that since March he has been at Headquarters, Third Service Command, where he is assistant claims officer.

2nd Lt. Roger Q. Keith is assistant staff JA for the 25th Infantry Division in the Pacific.
1st Lt. Walter W. Davis writes that he arrived in Paris on 21 June and has been on duty at the Branch Office since.

2nd Lt. Hayden H. Hull reports that the new address is Headquarters, IRLC, office of the staff. J.A. Camp, Farnam, Tex., where he is now staff J.A. He says that the duties include TJA of the GCM with an average of two trips per week, review of all special court cases prior to approval and styles of all discharge proceedings. Considerable time is spent on matters of advice to the commanding general, Camp Farnam is a recruiting center at Fort Hood. It is in the heart of the commercial core growing area in heavily drawn crowded area on the edge of the East Texas oil fields. It is located about eight miles from Tyler, Tex.

James M. Shaller is assigned to the J-3 Section, Central Pacific Base Command Section.

Lt. James R. Kiehr is now on duty at Camp Edwards, Mass., has been transferred to Camp Breda, Calif., and posts west on route for Pacific duty.

Lt. Byron Kamb writes from the Philippines that "sometimes the Army moves fast. It was commissioned on 18 Mar., had 10 days, four days' travel time, and was on route en route to Omaha on 16 June and on 15 June was in Manila."

Lt. Meagi Masamoto is in Military Government Headquarters somewhere in the Pacific, having been pushed out there after less than a month's duty at Oklahoma. He covers anywhere from 50 to 60 miles a day driving a jeep unaccompanied. As he moves about he senses likely the property rights of civilians can ever be altered as it has in the past. He is also busily engaged in the minor concerns of matters as to food and shelter are satisfied. The property conditions are such that there are instances when it is impossible to return than a month's duty at Omaha. He comes am on Lieutenant III in the J-3 Office according to Lt. Mallard's report. Lt. Donald R. Seidell has been transferred from his assignment to Headquarters, Fifth Services Command, at Ft. Worth, Tex. He is now in Alta, Wis., on the staff of the local newspaper. Formerly a newspaperman, he says he will be glad to get back on the farm and "will only bank deposits if good" are considered.

12th OC

Lt. Gregory C. Lagaza is assigned in JAGRP, Headquarters, Third Service Command, Baltimore, Md.

Lt. Henry Okerson reports that he has been at Camp Cooke since he reported to Fort Lewis, Wash., upon the completion of his post graduation course. He is now assigned to Fort Lewis which was transferred to Headquarters, Ninth Service Command, at Ft. Worth, Tex. His assignment was that of Military Affairs Division of the same office. Lt. Louis H. Simms originally assigned to Camp Hanford was changed but was sent to Post Headquarters there instead of the TMDB.

Lt. Walter Lindberg writes that he is assigned to Headquarters, Military District of Washington in assistant staff J.A. Lt. Earl F. Fishbaugh, J.C., writes from Wright Field, Ohio, that he is assigned to the Legal Branch, Production Service, Personnel Division, AMC. Lt. Louis W. Bottoms, J.C., and Edwin W. Jones are assigned these also as well as Lt. Frederick Jones (11th OC). Lt. Eugene Hassen is on duty at the Commercial Airlines Office there.

Lt. Jerome Goheen, J.C. (11th OC) is in the Miscellaneous Projects Section and Lt. Elmer J. Richardson is assigned to the Chinese Office of Budget and Fiscal.

Lt. Elmer W. Compton is one of the JAGs on duty at the Manhattan Engineering District, Oak Ridge, Tenn., now revised as one of the areas designated for the management of the atom bomb.

Lt. John T. Grady has been transferred from JAGRP, Fifth Service Command, to JAG Reproductive Detachment No. 2, Fort Ord, Calif.

Lt. Francis P. Hurley has been transferred from JAGRP, Fifth Service Command, to JAG Reproductive Detachment No. 2, Fort Ord, Calif.

Lt. Arthur Melzer is assistant staff J.A. at the Anzio Center, Fort Knox, Ky. Another assistant is Lt. Preston K. Johnson and the boss is Lt. Henry McCall (11th OC) who is seconding to Lt. Melzer. He is not coexistently aware of all matters of practice, procedure, and policy...excepting, of course, the matter of getting out of the Army. Both Lt. Johnson and myself believe that problems will be solved by 1947."

Lt. Richard C. Combs is assigned to RMG, Helldad Signal Depot, Baltimore, Md., where he is working on 25,000 claims.

Lt. Frank W. Farnsworth has been transferred from his assignment at Missouri River Engineer Division, Davenport, to as Assistant in JAGRP, Third Service Command with station at Branch Office, JAGRP, Helldad, Md.

Lt. John R. Harrelson is on duty at the Staff J.A. at Continental Air Forces, Bolling Field, Washington, D.C.

Lt. Robert M. Clark is assigned the 25th General Staff Class at Camp

General Staff School, Fort Leavenworth. Kansas. In the class of 1900 there were only three JAGs; in addition to himself Col. Reynolds, formerly Staff J.A. for the Fourth Air Force, and Capt., John Stafford (11th OC) from the Military Justice Division, JAGO.

Lt. William F. Reinhardt, Jr., from Freedman Field, Ft. Sam, Ind., where he has been assigned, that his work there promises to be interesting. He says: "The Field itself was requested only about a month ago and it is in the process of organization. My duties will consist of being the base legal officer, the TJA, claims officer, voting officer, serving officer, legal assistant officer, and probably a number of other jobs as somebody thinks of them. Therefore it appears that the work should be varied, although how extensive it will be is problematical because the intended full strength of the unit will probably not be present from the beginning and it will have to be handled ad hoc situation as they come."

Lt. Warren A. Anderson writes that he is at Headquarters III, Camp Edwards, Mass., and that Lt. Woodman is there on temporary duty. They started defending LGM cases the day following their arrival and last week got their baptism of fire as TJA. One day Lt. Anderson tried three cases. His official task is that of camp legal assistant officer and he has regular daily hours at both the General and Proctorial Courts. Lost or damaged luggage and marital difficulties make up the bulk of his practice, he says.

Lt. Philip B. Strafis writes from the JAGO where he has been assigned to the Claims Division. He says: "Bill Fox, Higgins and Palmer are in Military Affairs, Bishop and Coe in Litigations; Bissell, McCarty and Meagher in Military Justice; Bihler and Sawyer in International Law; Schmalzriedt in Military Personnel and Training; and Churchill in Claims." Young has been assigned to the Selective Service Headquarters.

13th OC

Lt. Eugene Wicke has been assigned to Cali General Hospital at Cushing from JAGRP, Fifth Service Command.

Lt. Frank H. Higdon is on duty at Headquarters, Fourth Army, Fort Sam, Houston, Tex.

Lt. Donald R. Seidell has been selected for duty at the JAGO and assigned to Headquarters, National Selective Service System, Washington, D.C.

Dean E. Wombard, Jr., has been transferred from JAGRP, Sixth Service Command, to Boston Port of Embarkation.

Position of the Staff Judge Advocate Section, Army Forces, Middle Pacific, Fort Shafter, H. I.


Recent Graduates FROM THE JAG SCHOOL

TWENTY-THIRD OFFICER CLASS  
(Graduated 21 July 1945)  
Abrahams, Arthur L., Capt., JAGD  
Ackerman, Walter J., Maj., JAGD  
Bannister, George E., 1st Lt., JAGD  
Baxt, Ernest H., Maj., AC  
Bauten, George G., 1st Lt., JAGD  
Carlson, Laurence E., Lt. Col., AC  
Carriagem, John A., Maj., AC  
Cobourn, George H., 2nd Lt., JAGD  
Cooper, John L., 1st Lt., JAGD  
Crom, Frank E., Lt. Col., Inf.  
Delaney, Robert E., Maj., JAGD  
Ewing, Garrett B., 1st Lt., AC  
Farnabas, William N., 1st Lt., JAGD  
Gibert, Morgan P., Maj., AC  
Glasnover, Thomas F., 2nd Lt., JAGD  
Groce, John H., Maj., SigC  
Groc, John F., Capt., JAGD  
Hillard, George L., Maj., JAGD  
Hilgerdorff, Hugo A., Jr., Capt., FA  
Hoban, George B., Capt., JAGD  
Howard, Frank L., Maj., JAGD  
Hudson, Richard S., 1st Lt., JAGD  
Johnson, Joe L., 1st Lt., JAGD  
Jordan, Andrew D., 1st Lt., JAGD  
Kashkel, Ralph L., Jr., 2nd Lt., JAGD  
Kline, George B., 1st Lt., JAGD  
Kotte, Frederick J., Jr., 2nd Lt., JAGD  
Levings, George E., Lt. Col., JAGD  
Lutz, Hugh W., Capt., TC  
Lyman, Willis T., Maj., JAGD  
Mauzy, Thomas F., 2nd Lt., JAGD  
Morris, Harry O., 1st Lt., JAGD  
Neeham, Victor E., Maj., JAGD  
Parker, Hillyer S., 1st Lt., JAGD  
Potts, Thomas J., 1st Lt., Inf.  
Rawls, Vernon C., Lt. Col., JAGD  
Rawn, Arnold E., Capt., AC  
Richer, Hibbard, Lt. Col., JAGD  
Robinson, Suzanne V., 1st Lt., JAGD  
Robinson, Walter J., Jr., Maj., JAGD  
Rosemound, St. Julien P., Maj., JAGD  
Rosenthal, Leonard B., 1st Lt., AC  
Schultz, Henry A., 1st Lt., JAGD  
Spencer, Eldon J., Capt., JAGD  
Strati, Gaetano V., Capt., AC  
Sullivan, Jeremiah O., 1st Lt., JAGD  
Summers, Meredith B., 2nd Lt., JAGD  
Vanetten, Edgar N., 1st Lt., JAGD  
Weaver, William F., 1st Lt., JAGD  
Wicker, Harry L., Capt., AGD  
Willmot, Henry H., 1st Lt., JAGD  
Winslow, Norman K., 1st Lt., JAGD  
Wood, Paul A., Lt., JAGD  
Zaia, Thomas F., 1st Lt., JAGD

TWELFTH OFFICER CANDIDATE CLASS  
(Graduated 21 July 1945)  
Anderson, Warren M.  
Artuso, Louis H.  
Bishop, Richard W.  
Booklear, Louis W., Jr.  
Churchill, William S.  
Coolsen, Richard B.  
Crumpacker, Owen W.  
Deason, David W.  
Eshleman, Robert T.  
Fitzbaugh, Earl C., Jr.  
Fox, William C., Jr.  
Garrett, John T.  
Glas, Robert M.  
Gray, Joseph R.  
Gravett, Charles H.  
Hinson, Eugene H.  
Hollington, Francis P.  
Hord, John R.  
Hutton, Thomas S.  
Hilliard, Derral O.  
Higgins, Frank S.  
Jones, Edwin W.  
Lagakos, Gregory G.  
Larrby, Virgil H.  
Lassiter, William H.  
Lindley, Walter S.  
Mccord, John C., Jr.  
Munsey, Arthur O., Jr.  
Mount, Frederick J.  
Munson, Thomas A.  
Nelson, Edward A.  
Otei, Henry R.  
Palmer, Paul C.  
Redmond, Elmer F.  
Reistadt, William J., Jr.  
Rhoda, John S.  
Sawyer, John N.  
Schnabel, Allan F.  
Schmidt, Henry J.  
Sergeant, Frank C., Jr.  
Steffins, Philip D.  
Woodman, Richard S.  
Young, Charles H.

TWENTY-FOURTH OFFICER CLASS  
(Graduated 22 September 1945)  
Aguila, Sabino J., Capt., JAGD  
Bollers, Francis A., Maj., JAGD  
Boozek, George W., 2nd Lt., JAGD  
Brinich, Edgar G., Capt., CE  
Brock, Thomas O., 1st Lt., JAGD  
Byrd, Louis G., Jr., 1st Lt., JAGD  
Callahan, Parmel J., 1st Lt., JAGD  
Carlson, S. J. Sisco, Capt., JAGD  
Carter, John H., Jr., Maj., JAGD  
Caven, Alfred W., Jr., Maj., AC  
Crowder, Robert N., S., 1st Lt., JAGD  
Dalrymple, William H., 2nd Lt., JAGD  
Daley, Thomas F., Jr., 2nd Lt., JAGD  
Dunlap, George E., Maj., JAGD  
Draper, James W., 1st Lt., JAGD  
Fridman, Saul H., 1st Lt., JAGD  
Gallagher, Joseph E., 1st Lt., AC  
Goff, John C., 2nd Lt., JAGD  
Hagen, Richard C., Maj., JAGD  
Hawley, Joe B., Jr., Capt., JAGD  
Head, Morris L., 1st Lt., JAGD  
Hentel, Clarence J., 1st Lt., JAGD  
Hunt, William A., Jr., Maj., JAGD  
Inlander, Norman W., Capt., JAGD  
Jackson, Harold L., 1st Lt., JAGD  
Johnson, Larkin H., Jr., Maj., JAGD  
Kaye, Lawrence R., 2nd Lt., JAGD  
Malone, Howard F., 1st Lt., JAGD  
McConnell, Alan G., 1st Lt., JAGD  
McDonnell, Herold F., Maj., JAGD  
Mitchell, William S., Jr., Capt., JAGD  
Montemayor, Manuel R., Maj., JAGD  
Mollicone, John A., Maj., JAGD  
Norvel, James W., 2nd Lt., JAGD
Ott, George W., Capt., JAGD
Otto, Louis A., Jr., 2nd Lt., JAGD
Roberts, Philip M., 2nd Lt., JAGD
Rogers, Guy W., 1st Lt., AC
West, William H., Jr., 1st Lt., JAGD
Wilkinson, Charles W., Capt., JAGD

THIRTEENTH OFFICER CANDIDATE CLASS
(Graduated 22 September 1945)
Anderson, William O.
Bach, Arthur M.
Baker, John W.
Baker, Robert M.
Bergmann, Roy W.
Blalock, James A.
Bray, William]
Breitenfeld, Victor H.
Brock, Barkley M.
Caviness, Robert S.
Clarke, Kingsley M.
Combs, Clyde E.
Connelly, Austin M.
Cornish, Abram H., Jr.
Crosland, Jack W., Jr.
Deason, Charles S.
Doyle, William E.
Flaherty, John P.
Gibson, John F.
Gunderman, Frank G.
Harkins, Walter S., III
Hayes, Kenneth T.
Hear, Frank L., Jr.
Horger, Charlton B.
Kerr, James H.
Kelly, Gerald:
King, Edward C.
Lawyer, Clarence M., Jr.
McEwan, Ernest M.
McGovern, Robert J.
McGuffie, Arthur D.
Magennis, Louis E.
Morrison, Thomas P.
O'Grady, James S., Jr.
O'Neal, Roger D.
Pitman, William A.
Porter, George
Powell, Robert H., Jr.
Reeves, William S., Sr.
Rainhardt, William F.
Rogers, Sam
Seawell, Donald R.
Stines, Stephen H.
Thomson, William M.
Tracy, James D.
Trinkaus, Walter R.
Wahler, Gilbert J.,
Weaver, Eugene
Williams, Charles S., Jr.
Wolffram, Richard R.
Wood, John C., Jr.
Young, John C., Jr.

TWOY-FIFTH OFFICER CLASS
(Graduated 20 November 1945)
Abell, H. K., Capt., JAGD
Ackroyd, G. G., Major, JAGD
Aranoff, F., Major, JAGD (PA)
Barnard, M. J., Capt., JAGD
Barr, J., Capt., JAGD
Bayliss, A. G., 1st Lt., JAGD
Byron, R. A., Major, JAGD
Cameron, T. J., Capt., QMC
Castro, F. R., Major, JAGD (PA)
Chappell, J. H., Capt., JAGD
Cuddeback, W. L., 2nd Lt., JAGD
Dovey, E. V., 2nd Lt., JAGD
Diaz, R. V., 1st Lt., JAGD (PA)
Dunnott, W., Jr., 2nd Lt., Inf
Ebert, C. E., 2nd Lt., Inf
Ficken, W. H., 2nd Lt., QMC
Friedenstein, A. H., Capt., JAGD
Gamble, J. L., 1st Lt., FA
Gavin, H. W., 1st Lt., JAGD
Glavich, S. M., 1st Lt., JAGD
Gray, H. R., 1st Lt., JAGD
Gruber, H. T., 1st Lt., QMC
Guerrero, R. B., 1st Lt., JAGD
Henderson, L. J., 1st Lt., Inf
Jones, L. E., Jr., 2nd Lt., JAGD
Kamins, R. H., Capt., JAGD
Keeler, J. L., 1st Lt., Inf
Knight, A. B., 1st Lt., JAGD
Lafferty, J. S., Major, JAGD
Larson, M. B., 2nd Lt., Inf
LeFeve, W. L., 1st Lt., JAGD
Lippert, D. I., 2nd Lt., Inf
Long, J. P., 1st Lt., JAGD
Loeb, C. E., 2nd Lt., JAGD
Mather, R. G., 1st Lt., QMC
McLaughlin, T. A., 1st Lt., MAC
Millett, G. J., 1st Lt., Inf
Moor, C. L., Capt., JAGD
Moore, D. S., 1st Lt., JAGD
Moorman, A. W., Major, JAGD
Muir, G., Capt., JAGD
Olney, P. L., 1st Lt., MAC
Packer, W. A., 1st Lt., JAGD
Polk, G. J., 2nd Lt., Inf
Quinter, D. M., 1st Lt., JAGD
Paul, R. H., Major, JAGD
Raffaelli, J. D., Capt., JAGD
Read, W. D., Major, JAGD
Reece, M. C., Jr., 1st Lt., FA
Roberts, E., Major, JAGD
Routier, L. J., Major, Inf
Ruby, D. T., 1st Lt., JAGD
Ruehr, O. J., Major, JAGD
Salcedo, A. S., Capt., JAGD (PA)
Saunders, V. R., Jr., 1st Lt., JAGD
Schilling, J. N., 2nd Lt., Inf
Skidmore, L. G., Capt., JAGD
Smith, R. R., 1st Lt., JAGD
Sowicky, E. A., 1st Lt., CMP
Sprittles, E. E., 1st Lt., JAGD
Staley, G. H., Major, JAGD
Stream, A. C., 2nd Lt., Inf
Swain, R. B., 1st Lt., JAGD (PA)
Thurston, M. F., Jr., 2nd Lt., JAGD
Tibbs, R. B., Lt. Col., JAGD
Torm, T. J., Capt., JAGD
Van Cott, J. L., 1st Lt., JAGD
Whitcher, H. M., 1st Lt., MAC
Wolfe, A. M., 1st Lt., JAGD
Wright, C. C., 1st Lt., Inf
superfluous to use, as a supplementary argument, the idea that nobody has a right to take advantage of a principle of justice which he himself does not respect. Otherwise, a murderer could object against capital punishment the commandment "you shall not kill." Any sanction provided by law, be it deprivation of life, freedom, or property, is, by its very nature, the infliction of an evil which, if not carried out as a sanction, that is to say, a reaction against a wrong, is a wrong itself. The non-application of the rule against ex post facto laws is a just sanction inflicted upon those who have violated this rule and hence have forfeited the privilege to be protected by it.