

Important:

Nominating Committee Report at p. 1

Bulletin No. 43

May, 1971

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The Judge Advocate JOURNAL



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JUDGE ADVOCATES ASSOCIATION

An affiliated organization of the American Bar Association, composed
of lawyers of all components of the Army, Navy, and Air Force

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JUDGE ADVOCATE JOURNAL

Bulletin No. 43

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Publication Notice

The views expressed in articles printed herein are not to be regarded as those of the Judge Advocates Association or its officers and directors or of the editor unless expressly so stated.

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REPORT OF NOMINATING COMMITTEE — 1971

In accordance with the provisions of Section 1, Article IX of the By-laws of the Association, the following members in good standing were appointed by the President to serve as the 1971 Nominating Committee:

Colonel Thomas H. Reese, USA—Chairman

Colonel James M. Bumgarner, USAF

Commander J. Kenton Chapman, USNR

Colonel Richard W. Fitch, Jr., USAR

Lieutenant Colonel Daniel M. O'Donoghue, USAR

Major Gerald C. Baker, USAFR

Mr. Neil B. Kabatchnick

The By-laws provide that the Board of Directors shall have twenty members subject to annual election. It is provided that there be a minimum representation of three members for each of the Armed Services: Army, Navy and Air Force, including not less than one from each service in grade not higher than Captain in the Army and Air Force, or Lieutenant Senior Grade in the Navy. The Marine Corps and Coast Guard are included in the Navy representation. For the purpose of determining service minimum representation, the slate of nominees for the Board of Directors is divided into three sections; and, upon the balloting, the two nominees from each section who receive the highest plurality of votes within the section together with the junior officer representative of each service, shall be considered elected at the annual election as the minimum representation on the Board of that Armed Service. The remaining eleven elected members of the Board will be the nominees receiving the highest number of votes irrespective of their armed service.

Members of the Board not subject to annual election are The Judge Advocates General of each of the services, all former TJAG's, the senior uniformed lawyer in the active service of the United States Marine Corps and of the United States Coast Guard and all past presidents of the Association. The names of these members of the Board are listed on the inside of the back cover of this issue of the Journal and none of these are listed in the following slate of nominees.

The Nominating Committee met and has filed with the Secretary the following report as required by Section 2, Article VI of the By-laws.

Slate of Nominees for Offices

President:	Cdr. Richard A. Buddeke, USNR, Va. (2, 3)
First Vice President:	Col. Edward R. Finch, USAFR, N.Y. (2)
Second Vice President:	Col. James A. Bistline, USAR-Ret., Va. (6)
Secretary:	Capt. Martin E. Carlson, USNR-Ret., Md. (2)
Treasurer:	Col. Clifford A. Sheldon* USAF-Ret., D.C. (2)
Delegate, ABA	Maj. Gen. Kenneth J. Hodson, USA, D.C. (1)

Slate of Nominees for the Twenty Positions on the Board of Directors

Army:

- Col. Gilbert G. Ackroyd, USA-Ret.* Pa. (7)
- Col. William S. Fulton, USA, Pa. (1)
- Col. James A. Gleason, USAR-Ret.,* Ohio (2)
- Col. William W. Kramer, USA-Ret.* Va. (2)
- Capt. John T. Lenga, USAR*, Va. (1)
- Lt. Col. David I. Lippert, USAR-Ret.* Cal. (2)
- Maj. Wiley F. Mitchell, Jr., USAR*, Va. (6)
- Maj. Joseph Moreland, USA, Va. (1)
- Lt. Col. Lenahan O'Connell, USAR-Ret.,* Mass. (2)
- Brig. Gen. Harold E. Parker, USA* Va. (1)
- Col. Albert S. Rakas, USA, Va. (1)
- Col. William L. Shaw, ARNG*, Calif. (5)
- Col. Waldemar A. Solf, USA-Ret.*, Va. (3)
- Lt. Col. James M. Spiro, USAR, Ill. (2)
- Brig. Gen. Clio E. Straight, USA-Ret., N.Y. (6)

Air Force:

- Lt. Col. Robinson O. Everett, USAFR*, N.C. (2)
- Maj. Arthur Gerwin, USAFR, N.Y. (2)
- Maj. Gen. Richard C. Hagan, USAFR, Va. (4)
- Col. Gerald T. Hayes, USAFR, Wisc. (2)
- Col. William R. Kenney, USAF*, Md. (1)
- Capt. John W. Matthews, USAFR*, Va. (1)
- Col. Robert Norris, USAF, Va. (1)
- Brig. Gen. Pat Sheehan, USAFR, New Meico (2)

Navy:

- Lt. Cdr. Donald H. Dalton, USNR-Ret.*, Md. (2)
- Lt. Peter M. Frank, USNR, D.C. (1)
- Capt. Louis J. Poisson, Jr., USNR, N.C. (2)
- Capt. Richard J. Selman, USN, D.C. (1)
- Cdr. Thomas A. Stansbury, USNR, Ill. (2)

Under provisions of Section 2, Article VI of the By-laws, members in good standing other than those proposed by the Nominating Committee may be nominated and will have their names included in the printed ballot to be distributed by mail to the membership on or about 5 June 1971, provided they are nominated on written petition endorsed by twenty-five, or more, members of the Association in good standing; provided, however, that such petition be filed with the Secretary at the office of the Association on or before 25 May, 1971.

Balloting will be by mail upon official printed ballots. Ballots will be counted through Noon 5 July, 1971. Only ballots submitted by members in good standing will be counted.

ZEIGEL W. NEFF
Captain, USNR
Secretary

NOTE: The asterisk following the name of a nominee indicates that he is an incumbent; the number in parenthesis indicates professional engagement of the nominee at this time as follows: (1) active military or naval service as judge advocate; (2) private law practice; (3) law school faculty member; (4) lawyer in federal government service; (5) lawyer in state government service; (6) corporate counsel; (7) executive of a state bar association activity.

THE 1971 ANNUAL MEETING IN NEW YORK AND LONDON

The Twenty-eighth Annual Meeting of the Judge Advocates Association will be held in New York and London on 6 July and on 16 July, 1971, coincident with the American Bar Association's Annual Meeting activities in those cities. The Arrangements Committee is Co-chaired by Major General James S. Cheney and Colonel Edward R. Finch.

In New York, the business meeting will convene at 3:00 P.M. on 6 July 1971 in the Le Petit Trianon Room of the New York Hilton Hotel

and adjourn at about 4:00 P.M. to reconvene in London at 3:00 P.M. on 16 July 1971 at the Armoury House of the Ancient and Honourable Artillery Company.

The social activities in New York will take the form of a cocktail party and reception co-hosted by Col. Edward R. Finch and Lt. Col. Osmer C. Fitts and their ladies at the Finch apartment at 860 Park Avenue. The annual dinner of the American Bar Association is scheduled for that same evening, so the hours of the JAA party are necessarily fixed as 4:30 to 7:00 P.M. Since the accommodations are not unlimited, members who will be in New York City attending the Judge Advocates Association and American Bar Association's meetings are requested to respond to this invitation in writing and the first 125 to respond will be sent invitation cards for themselves and their ladies. The guest list must be formed by June 1st so that proper plans can be made for this party; and, therefore, members intending to attend should not delay their responses which should be sent to the Executive Secretary, Judge Advocates Association, 1010 Vermont Avenue, N. W., Washington, D. C. 20005.

The annual dinner will be held in London in the Long Room of the Armoury House of the Ancient and Honourable Artillery Company on 16 July, 1971, with cocktails and social hour beginning at 5:30 and dinner at 6:30 P.M. The Armoury House, located on an elevation overlooking the City of London, is surrounded by its well kept Parade Grounds and the Cricket Field. Its interior is beautifully panelled and contains many portraits and memorabilia. The setting is a perfect one for Judge Advocates who combine the professions of arms and law. The tariff has been established at \$15.00 per person which includes a reasonable quantity of preprandial liquid stimulants and hors d'oeuvres, supper and wine. Because we do not have the same flexibility in handling the London dinner as we do Stateside, it is necessary that reservations be made in advance and as early as possible; in any event, no later than 1 July. Reservations may be made with the Executive Secretary at the Association's headquarters in Washington and tickets will be mailed to those making reservations.

The Committee on Arrangements looks forward to greeting you in both New York and London. Make your reservations for both the New York and London activities now by writing to the Executive Secretary, Judge Advocates Association, 1010 Vermont Avenue, N. W., Washington, D. C. 20005.



REPORT OF TJAG—ARMY

Brigadier General Harold E. Parker, Assistant Judge Advocate General of the Army, reported at the Annual Meeting of the Association in St. Louis on 10 August 1970, as follows:

The demand for quality legal services in the Armed Forces is at an all time high. Matters of protest and dissent within the military invariably raise complex legal issues; litigation against the Services is at its highest peak; Government procurement contracts call for ever-increasing legal attention; Vietnam has made heavy demands on our resources; and the Military Justice Act of 1968 has substantially expanded our mission. It is against this background that I would like to discuss the situation we face in the personnel area.

The Judge Advocate General's Corps is experiencing a critical and unique retention problem. We now have 1785 officers stationed throughout the world. Of this total, 1352 are junior officers in the grade of captain serving four-year periods of obligated service. They do a fine job for us but, unfortunately, almost all leave the Army upon completion of their service obligations.

In addition to our junior officers we have 433 officers who have completed obligated service and have at least four years' experience. Although we know that many of

these lawyers will leave the service before they are eligible to retire, we regard them as our "career force." It is the highly unfavorable ratio of our experienced attorneys to our inexperienced junior officers which most concerns us—75% of our lawyers have less than four years' experience. We think that roughly one-half of our lawyers should be members of our career force. As you can see, we fall far short of that requirement.

In April of 1970, the Corps was 37 percent short of its authorized strength in field grade officers, and 43 percent short in the critical grades of major and lieutenant colonel. To maintain the minimum acceptable career force, at least 60 captains per year must elect to remain on active duty after they complete obligated service. Last year, for example, fewer than 25 lawyers decided to stay with us. In addition, one-third of our senior officers are now eligible for voluntary retirement. In fact 40 experienced military lawyers retire each year. Soon all of our officers with World War II experience will have left.

So far I have spoken of junior officer retention and senior officer retirement problems as they affect our experience level. Recently, a third area of concern has developed—this relates to career officers who, after having served on active duty for a long period, leave to accept

civilian employment. During the past three years we have had an alarming increase in resignations from Regular Army judge advocates in the grade of major. Only one such officer resigned in fiscal year 1967; eight resigned in 1968; 15 left in 1969; and during fiscal year 1970 over 40 career majors have left the Army. When you consider that we have only 185 Regular Army majors in the Corps, you can see how serious these losses are. A few years ago, we believed that Regular Army majors with over five years' service could be counted upon to serve at least 20 years. This is no longer the case. More significantly, recent losses include many of our finest judge advocates, officers between 30 and 35 years old with five to ten years' service. As a group they averaged over eight years' service; each was an officer of demonstrated ability and great potential.

We lose experienced majors and other officers primarily because they are attracted by higher pay. With the possible exception of retirement rights, military "fringe benefits" are often equalled, and sometimes exceeded, in the civilian sector. The lawyers who leave the Army are not opposed to public service, as such; almost all report they have found the military practice of law satisfying and challenging. They say, however, that they can no longer accept the financial sacrifice inherent in a career in the Judge Advocate General's Corps.

This brings me to the status of our professional pay bill. This bill

(H.R. 4296), which has received the full support of the Department of Defense, was introduced by Congressman Pirnie (R-NY) on 23 January 1969. Fifteen other members joined as co-sponsors. On 11 September 1969 hearings were held before Subcommittee No. 1 of the House Armed Services Committee. The Honorable Roger T. Kelley, Assistant Secretary of Defense (M&RA), and all of the Service Judge Advocates General testified in favor of the bill. In addition, the Subcommittee considered recommendations from the American Bar Association, Federal Bar Association, Judge Advocates Association, and other interested groups and individuals. On 20 October 1969, the House Armed Services Committee, acting as a whole, unanimously recommended enactment of the legislation. On 2 December 1969, the bill was unanimously passed by the House and referred to the Senate for further action. Since that time, the bill has been before the Senate Armed Services Committee awaiting their consideration.

As a final comment on the professional pay bill:

Congress has consistently shown a desire to provide first-class legal services to the Armed Forces. The Military Justice Act of 1968 is evidence of that desire. Individual servicemen charged with serious offenses should be represented by military lawyers with a reasonable degree of experience. Commanders faced with complex problems in

military justice, procurement, claims, matters of dissent, and the like should have the benefit of mature legal advice and counsel. The Judge Advocate General's Corps can provide these services only if it can retain an adequate number of career judge advocates. To this end it is essential that Congress enact H.R. 4296.

As many of you are aware, the Military Justice Act of 1968 became fully effective on 1 August 1969. Based on a full year's experience under the Act, we feel that the military justice system has been substantially improved in regard both to efficiency and fairness. Legally qualified counsel are now available to accused soldiers before special courts-martial as well as in general courts-martial. Military judges are being detailed to approximately 85% of all special courts tried in the Army. It is anticipated that this figure will continue to increase. Before the new Act all trials were before court members; under the new Act, at special courts-martial to which military judges are detailed and all general courts-martial the accused may now request to be tried by the military judge alone, without court members. This provision of the Act has brought about a decrease in trial time, shortened trial records, and has resulted in a significant saving of line officer time. These savings are put in proper perspective when it is considered that 86% of general courts-martial and 95% of special courts-martial to which a military

judge is detailed are being tried by the judge alone. When it is further considered that 2700 general court-martial cases and almost 48,000 special court-martial cases were tried in fiscal year 70, the manpower savings become fully apparent.

In regard to military judges, we feel that the Army has achieved real success in implementing the new Military Justice Act. When the Act was passed in the fall of 1968, we had only 27 general court-martial military judges assigned to the U. S. Army Judiciary. By 1 August 1969, the effective date of the Act, we also had on board 39 special court-martial judges. Eight more military judge positions were created in the U. S. Army Judiciary during the ensuing year. These military judges, at various locations throughout the world, last year tried all of the general court-martial cases and 60% of the special courts—the remaining 25% of the special courts to which a judge was detailed were tried with judges not assigned to the U. S. Army Judiciary—officers certified by The Judge Advocate General as competent to sit on special courts, but assigned to judge advocate offices in the field with normal duties within those offices. Our goal is to have available a military judge assigned to the Judiciary for the trial of all special courts-martial and we are working toward this end.

I am sure you are interested in knowing more about these military judges. Under the Uniform Code

of Military Justice, they have a status akin to that of a Federal district judge. As I stated previously, the judge may try cases without a jury if the accused so requests. In addition, he may hold pretrial hearings at which he may arraign the accused, accept his pleas, and dispose of appropriate motions. During the proceedings all of his interlocutory rulings are final including his disposition of a motion for a finding of not guilty and of challenges for cause. In all his actions, a military judge is guided by the Code of Professional Responsibility and Canons of Judicial Ethics. He is protected by law to insure that he performs his judicial functions in an objective and independent manner. These features of our military justice system clearly reveal the steps Congress has taken to insure that the position of military judge closely parallels that of a Federal district judge.

Every effort has been made to insure that each military judge is of the highest professional competence. Prior to being selected, the officer's records and reports are reviewed for proficiency in criminal law. Recommendations are also sought from those active

judges who have knowledge of the prospective judge's maturity and past performance as a trial lawyer. Prior to sitting on any cases, each of the new judges is required to successfully complete an intensive course for military judges at the Judge Advocate General's School, Charlottesville, Virginia. This course is patterned, as closely as possible, after the regular session of the National College of State Trial Judges. The course includes among other subjects procedure, evidence, judicial ethics, and a sentencing institute which is conducted by a civilian Federal judge. The military judge does not stop here. A continuing educational program is always in progress. Once a year military judges attend a judicial conference held at the Judge Advocate General's School at Charlottesville, Virginia, as well as a periodic sentencing institute in each judicial area. Two judges attend the National College of State Trial Judges every year. A number of the judges also attend civilian bar conferences and seminars on criminal law.

The continuing support of the Judge Advocates Association is appreciated.



REPORT OF TJAG — NAVY

Rear Admiral Joseph B. McDevitt, The Judge Advocate General of the Navy reported to the Association at its Annual Meeting in St. Louis on 10 August 1970, as follows:

Personnel

The experience level of the Navy Judge Advocate General's Corps continues to be the problem of primary concern in the personnel field. The active duty Corps presently includes a satisfactory number of captains only because the Secretary of the Navy has allowed the continuation of JAG Corps captains beyond the statutory retirement point of 30 years. Below captain, there are in the JAG Corps only 54% of the requirement in the rank of commander and 58% of the requirement in the rank of lieutenant commander. The situation in the lieutenant commander rank would be much worse if it were not for two circumstances: (1) two entire year groups instead of the normal one year group were promoted from lieutenant to lieutenant commander in fiscal year 1970; (2) A large number of officers extended on active duty beyond their period of obligated service awaiting the outcome of congressional action on what is popularly called the Pirnie Bill which would provide professional pay for the military lawyer. There are presently only 20 Regular offi-

cers in the rank of lieutenant in the JAG Corps. Moreover, unless the bill establishing financial incentives is enacted into law, a high percentage of the lieutenant commanders and lieutenants will leave active service. This is a blunt but inalterable truth.

Naval Reserve Law Program

The Naval Reserve Law Program continues as one of the most dynamic of all reserve drilling activities.

In excess of 850 judge advocates are currently drilling in 41 law companies spread throughout the nation. The total number of reserve lawyers holding Navy JAGC commissions is approximately 2,000.

At the request of the Reserve Training Command in Omaha, the Reserve Section of the Office of JAG conducted a survey of a large number of active duty installations. The purpose of the survey was to determine the need for the services of local reserve lawyers in various active commands.

The result was a pilot program under which more than 50 young lawyers are currently providing legal services to the active forces. In view of the major reductions faced by the active military forces, this "Gaining Command" concept, pioneered by the law program, will be a major responsibility of the Reserve forces. In addition, a num-

ber of Reserve Law Companies are providing legal assistance on a regularly scheduled basis to enlisted personnel of the lower pay grades in areas where local bar associations concur in this service.

In continuation of a vigorous training program for the very junior officers attached to this program, the Reserve Personnel Division has prepared its fifth training volume which covers the subjects of Investigations and Claims under the Medical Care Recovery Act. Volume 6 in this series (also in the claims field) is being prepared.

The restriction on active duty for training funds continues to restrict the Reserve law program, along with all the other phased forces (non-drill pay) programs.

International Law

Rapid far-reaching developments have served to increase and focus both national and international interests on the law of the sea. The Navy remains deeply involved in this vital legal area.

During the past year members of the International Law Division, Office of the Judge Advocate General, have reviewed various strategic arms limitations proposals. Particular attention was directed to proposals which resulted in the current joint US/USSR draft treaty on seabeds disarmament presently under consideration in the Conference of the Committee on Disarmament (CCD). It is hoped that the draft seabed disarmament treaty will be presented

to the UN General Assembly at its next session.

Early in the year the U.S. publicly declared its desire to work toward an international agreement limiting the breadth of the territorial sea to 12 miles if necessary guarantees of free passage through and over international straits could be obtained. In May the President announced a broad imaginative new U.S. oceans policy relating to natural resources of the seabed and subsoil. Efforts to move toward the territorial sea agreement as well as preparation of specific U.S. proposals on the seabed which were tabled in Geneva at the August meeting of the UN Seabed Committee have been major projects for the International Law Division.

Assistance continues to be rendered to the Secretary, Under Secretary, and Assistant Secretary of the Navy (Research and Development) in their responsibilities on the National Marine Council and its subordinate committees, particularly the newly formed subordinate group known as the Committee on Policy Review. Use of offshore areas for commercial exploration and exploitation of undersea oil, gas and other mineral deposits has increased the number of personnel assigned to the International Law Division and has contributed to increased Navy efforts to resolve potential conflicts between military and non-military usage of domestic offshore areas.

In the area of international negotiations, representatives of the

Navy Judge Advocate General participated in the drafting of a specialized status of forces agreement, within the NATO framework, for limited operations in the Azores. Extensive negotiations are being conducted at the present time with Spain with respect to a new agreement authorizing the continuation of the bases presently maintained in that country. These negotiations are being carried out in the face of a September 1970 expiration date for the present agreement with Spain. On 6 August 1970 the agreement of friendship and cooperation between the two governments was signed insuring the United States presence in Spain for another five years. Negotiations continue with respect to status of forces arrangements.

Less dramatic in immediate impact, but of vital long range interest is the use of domestic and international air space. As air space becomes more crowded, and as interest in pollution, including noise pollution, becomes more intense the Navy must be prepared to present its legal case for the necessary use of its training and operational flight areas.

Military Law

After one year under the Military Justice Act of 1968 several observations may be made. The Navy has encountered no significant problems in implementing the new law, primarily because of an increased officer and personnel allowance and its concentration of judge advocates and clerical per-

sonnel at 30 law centers strategically located throughout the world. Law centers have met the increased workload placed upon military lawyers by the Act and have proved to be a most economical and efficient means of providing legal services to all commands ashore and afloat.

Reports from the field indicate that there has been an increase in the number of general and special courts-martial during the past fiscal year. The new provision of the UCMJ permitting the accused to refuse trial by summary court-martial may have contributed to this trend. Also, there is some indication that commanders have become less reluctant to refer cases to trial now that trial procedures have been streamlined.

The new provisions of the UCMJ providing for trial by military judge alone have been utilized in approximately 77% of the cases in the Navy and Marine Corps. When the accused requests trial by military judge alone and his request is approved by the military judge, court members are not used. A random sample study of trials held at Navy commands during the past eleven months indicates that in each general court-martial with military judge alone there is a minimum saving of 40 hours for court members who were not required to participate and 9 hours for the judge advocates who were required to participate. In each military judge alone special court-martial there is a saving of 6 hours for the court members who

were not required to participate and 2½ hours for the judge advocates. When these figures are applied to the 309 general courts-martial and the 5,984 special courts-martial tried by military judge alone during the period, it appears that 48,264 line officer man hours have been saved and that 16,245 judge advocate man hours have been saved. It is pointed out that this study concerned only cases tried at Navy commands but it is estimated that there has been a comparable savings at Marine Corps commands. Additionally, in trials by courts with members, Article 39(a) sessions have saved many man hours by enabling counsel and the military judge to resolve time-consuming matters prior to the assembly of the court members.

Generally, changes effected by the Military Justice Act of 1968 have been salutary. As mentioned, time and money have been saved by the new trial procedures utilizing military judges. Reorganization and relocation of legal personnel have resulted in more efficient operation. The one major problem remaining is an insufficiency of clerical personnel to support lawyers in the field.

Despite the substantial reforms caused by the Act, criticism of military justice has not waned. Indeed, calls for both sweeping and particular modifications designed to further improve the military justice system have become more insistent.

Although the decision of the U. S. Supreme Court in *O'Callahan v. Parker* restricted military jurisdiction, the Navy, as noted above, has experienced an increased case load. Most *O'Callahan* issues have been decided by the U. S. Court of Military Appeals, and the limits of that holding have, at least by USCMA, been well-defined.

The case load expansion is exemplified by the case load processed by the military judges attached to the Judiciary Branch Offices of the Navy Judiciary Activity. During the last six months of fiscal year 1970 judges attached to the various branch offices tried 545 cases by general courts-martial and 933 cases by special courts-martial for a total of 1,378 cases.

Admiralty

During the fiscal year 1970 our Admiralty Division closed 458 cases out of a running docket of about 800. About one-half of those closed cases (215 of 458) were disposed of either under the Navy's admiralty settlement authority or by conclusion of admiralty litigation handled by the Department of Justice with our Admiralty Division's close cooperation. Just over \$1,250,000 exchanged hands to conclude these cases involving claims of over \$11,500,000.

There is pending in Congress a proposed amendment to Title 10 U. S. Code, to broaden the admiralty tort settlement authority of the Navy, Army and Air Force to coincide with liability to suit under the Public Vessels Act as

amended. The primary purpose of the proposed legislation, H.R. 16417, is to enable the Secretary of the Navy to settle admiralty claims for damages caused by personnel or property—which would modify existing law enacted in 1944 providing for settlement only where damages are caused by naval vessels.

Probably the most significant case now pending in the Admiralty Division is the USS YANCEY—Chesapeake Bay Bridge-Tunnel collision. During the highwinds of a gale on 21 January 1970 USS YANCEY, a 26-year old cargo carrying vessel, struck and knocked down or damaged several spans of the Chesapeake Bay Bridge-Tunnel. The total of the claims for damages received to date amount to \$2,478,351.47; several other claims have been received which did not set forth a specific amount of damages.

Legal Assistance

The Department of Defense Committee's report on legal assistance filed 17 July 1970 is expected to recommend legislation creating a statutory basis for legal assistance, making greater use of lawyer members of the Reserves and expanding legal assistance to the extent budget support can be obtained from the Department of Defense and consistent with the cooperation of the local bars.

Taxation—General

Two cases of general interest are presently pending. The Justice

Department has agreed to file suit contesting Puerto Rican legislation requiring all motor vehicle owners, including nonresident servicemen, to pay a \$35 annual fee to subsidize the payment of substantial benefits to all auto accident victims on a no-fault basis.

Also awaiting trial is a possible landmark case in the Federal immunities area challenging Mississippi's insistence that military clubs and messes order their liquor from the state ABC outlets, at a 17% markup; or if purchasing liquor from out of state, the clubs must still pay Mississippi the 17% tax. The suit asks for a refund plus an order prohibiting Mississippi from taxing out of state purchases. The case will have considerable impact because a number of other liquor monopoly states have attempted similar restrictions on club liquor purchases.

Income Taxes

Federal. During the past year the Internal Revenue Service provided the Armed Forces with several favorable rulings, one of which held that family separation allowances were excluded from a gross income. The IRS also advises that it is making a concerted effort to eliminate the assessment of interest and penalties against servicemen and their dependents where their Federal income tax returns were postponed by reason of combat zone duty. Several other questions stem from the Federal Tax Reform Act of 1969 which is radically changing the tax treatment of

allowances and reimbursements made to military and civilian personnel as moving expenses. Moving expense reimbursements will be reported on Form W-2 for the first time and servicemen (as well as other employees) need to keep records of their moving expenses, in order to deduct them when filing 1970 returns. Thankfully the same Reform Act is reducing, and even eliminating, the income tax of most of our lower rated servicemen.

State. The dispute with the state of Illinois over taxation of military pay has been substantially resolved. Illinois exempts all military pay for 1970 and future years, but differed from the interpretation of "residence" rules made by seven other states with factually identical laws. Eventually we expect to resolve the matter of 1969 liability.

Administrative Law

Labor - Management Relations. Executive Order 11491, which had an effective date of 1 January 1970, provided for a substantial change in the resolution of differences between labor and management in the Federal service. Under its predecessor, Executive Order 10988, authority to administer the labor-management relations program was vested essentially in the heads of the executive departments and agencies. The current executive order provides for the centralization of this authority in the newly established Federal Labor Relations Council with certain functions being administered by

the Assistant Secretary of Labor for Labor-Management Relations and with certain authority relating to negotiation impasses vesting in the newly created Federal Service Impasses Panel. The centralization of these functions and the providing for a third-party review of determinations, made within the departments and agencies, must necessarily result in a greater formality of proceedings and concomitant requirement for more extensive legal services. Navy and Marine Corps judge advocates are meeting this requirement in the Navy Department by providing on-site advice to civilian personnel management and by serving as counsel in adversary proceedings.

Litigation and Claims

Effective 1 October 1970, the Navy will establish a new procedure for the rendition of personnel wanted by out-of-state authorities. The Secretary of the Navy has directed Navy and Marine Corps commands to honor local fugitive warrants issued upon interstate requisitions. This brings Navy practice into line with Army and Air Force procedures.

The new procedures for payment of personnel claims by field commands announced a year ago have been a great success. Payments are made quickly and recoveries from carriers for their legal obligations have increased.

Litigation involving judicial review of military administrative personnel actions is steadily increasing. Habeas Corpus actions

by professed in-service conscientious objectors has accounted for a large part of this increase. Enforcement of drug abuse regulations has indirectly produced several due process challenges to administrative discharge boards. Cases of particular importance have been the suit by Culebra Island residents seeking to have the Naval Defensive Sea Area declared unconstitutional and the suit by midshipmen and cadets seeking to have service academy compulsory chapel attendance regulations declared unconstitutional. The United States has been successful in both of these cases to date.

Promotions and Retirements

Project Streamline was initiated with a view to the revision of the entire physical disability system, including the creation of a Naval Disability Agency. Promotions and Retirements Division provided the Judge Advocate General's representative to the Project Stream-

line Working Group. Project Streamline has completed its initial planning phase relative to the reorganization of the disability system, and the new Naval Disability Agency has received Secretarial approval. At present the Naval Disability Agency has a Director on board (Rear Admiral Norman C. Gillette, Jr., USN (Ret.)), has office space and is organizing towards full operation expected to begin on 1 October 1970. All physical disability cases will receive initial "prima facie" evaluation by a central PEB in Washington. Full and fair formal hearings will be conducted by one of three PEB's—in Washington, D. C., Great Lakes, or San Diego.

All stages in the physical disability evaluation system will be under the new Naval Disability Agency except for the Naval Physical Disability Review Board and JAG legal review and "en bloc" action for the Secretary of the Navy.



REPORT OF TJAG—AIR FORCE

The Judge Advocate General of the Air Force, Major General James S. Cheney, reported to the Association's meeting in St. Louis on 10 August 1970, as follows:

Personnel

As of 30 June 1970, the number of Judge Advocates assigned to the Department was 1,237. Of the total assigned, approximately 48% are regular officers, 30% are career reservists (22% came on active duty in career status), and the remainder of 22% are the younger captains serving with an established date of separation.

Officer Procurement

Our total requirements for new officers continue to be met by the use of AFROTC graduates whose call to active duty had been delayed to permit them to complete their law school studies and be admitted to practice, in addition to a few voluntary recallees, graduates from the excess leave program, and intraservice transfers. With the advent of the Military Justice Act of 1968 which boosted Judge Advocate requirements over and above those which could be met from present input resources, an opportunity was offered to reserve officers on active duty in the grade of captain and below who were lawyers but not Judge Advocates, to compete for selection into The

Judge Advocate General's Department.

Retention

Notwithstanding the fact that we are able to meet our procurement quotas without difficulty, the retention of officers beyond their obligated tour remains our most critical problem. It is running at approximately 14% at the five year point and it decreases from there. We are still engaged in self-help methods in an attempt to improve this rate. Examples of this are the distinctive insignia which is now worn by all Judge Advocates. Another is our continuing efforts in Career Management to provide as attractive career patterns as possible, which includes serious consideration of assignment preferences, direct communications on career management matters, and professional and military education. In September of this year we will launch a professional education program whereby ten Judge Advocates annually will enter a civilian law institution for study leading to LL.M degrees in Government Procurement, Taxation, and Labor Law. Additionally, commencing this year, five Judge Advocates will be selected for a one-year Procurement Law internship. They will work in the Procurement and Production Division at each of the five Air Materiel Areas throughout the country gaining

practical experience as procurement officers as a forerunner to subsequent procurement law duties at the completion of the one-year specialized on-the-job training. We are continuing our practice of screening the records of reserve officers during their initial tour and of tendering regular appointments to the best qualified. Although we experience only a one-third acceptance rate from such tenders, I am convinced that we have picked up some career officers we would not otherwise have obtained.

Clearly, the pay differential between military and civilian lawyer continues to be the biggest obstacle to significantly improving our retention figures. Although the difference in pay is only \$1,200 or so in the age 25-34 bracket, it rapidly increases until at age 60 the civilian lawyer is making \$17,000 a year more than his military counterpart, or expressed another way, he is making double the salary of the military lawyer. In this connection, H.R. 4296, which provides professional pay and continuation bonus has passed the House and is in the Senate for consideration.

I am convinced that retention will remain a serious and increasingly critical problem until such time as legislative relief is obtained in the area of the comparability of military and civilian pay for professionals.

Reserve Program

Beginning in late 1969 The Judge Advocate General began a

complete review of the reserve program with a view to making it a more vital program and to make it more responsive to the needs of the Air Force and to the individual reservists. This is continuing at the present time.

As of 30 June 1970, the Ready Reserve of the Department consisted of 513 Mobilization Augmentees; 374 Reinforcement Personnel, 44 unit members assigned to Air Force reserve units and 107 unit members assigned to the Air National Guard.

USAF Judiciary

Last year in my concluding remarks on military justice I stated that we were in a state of flux as the result of the Military Justice Act of 1968; the changes brought about by the MCM, 1969 and the unknown implications of the Supreme Court's decision in O'Callahan. This year I am happy to report that our experience gained in working with the new law and Manual and the decisions we have received from the Court of Military Appeals on O'Callahan issues has removed much of the uncertainty we faced.

Our trial judiciary has now been in full operation for one year and despite a few birth pains is functioning smoothly worldwide. Trial judiciary officers are located in eight geographic circuits and during the year presided over 242 general courts-martial. We had determined sometime after the judiciary was created that TJO's would also act as military judges on special

courts-martial tried within their respective circuits if their availability would not interfere with their primary responsibility as trial judiciary officers for general courts. During this same period our TJO's were able to preside over 237 special courts and while riding circuit were able to serve as legal advisor on five administrative boards. Approximately 32% of the accused facing trial by general courts-martial requested trial by military judge alone. In special courts-martial cases presided over by the trial judiciary officers the percentage was approximately 47. It is interesting to note that approximately 22% of the TJO's time at trial with members was spent in the pretrial Article 39a sessions which have contributed much to the orderly conduct of our trials. Scheduling continues to be the biggest problem faced by the trial judiciary officers.

In the area of O'Callahan the Court of Military Appeals has affirmed our position that there is court-martial jurisdiction over all offenses committed outside the territorial limits of the United States. While the Court has, at least impliedly, given retrospective effect to the O'Callahan decision to those cases still in the appellate process and "subject to direct review" it did hold, with Judge Ferguson dissenting, that where the military appellate process was finalized, prior to the O'Callahan decision, there would be no application of O'Callahan. There is still pending, however, one case before

the Supreme Court which had been finalized in the military appellate channels long before O'Callahan. Even though the offenses were committed on a military reservation, it is hoped that the Court will get to the issue of retroactivity. As to offenses committed on base the Court has generally held that jurisdiction attaches because the security of the military installation is affected. Where the offense occurs off base the Court's decision has been based on several factors. For instance if the victim is an active duty serviceman, O'Callahan does not apply. This was the holding in a case involving assault as well as the housebreaking and larceny of the home of another serviceman located off base. Several cases involving off base offenses have been resolved against the accused where he used his military status to facilitate the commission of the offense. For example, reliance on the accused's military status during the cashing of a check which later turns out to be worthless is sufficient to show service connection. There are still other unresolved problems generated by O'Callahan but in the main we have more of a feel for where we are going.

Our court-martial rate is down somewhat from our 1968 rate. The 1969 rate per thousand for all courts-martial was 2.9. That converts to 266 general courts-martial, 1,726 special courts-martial and 554 summary courts-martial. Last year, if you recall, I mentioned that we anticipated some signifi-

cant changes in these actions after the Military Justice Act of 1968 is in effect for awhile. We anticipated that the right now given to a person to object to trial by summary court-martial, even though he has been offered and has rejected punishment by Article 15, would reduce the number of trials by summary courts and increase the number of trials by special courts. Our prediction of a drop in the number of summary courts materialized, the reduction being from 847 in 1968 to 554 in 1969, but there was no corresponding increase in special courts. In 1969 we had 29,079 Article 15 actions, just slightly less than the 29,672 imposed in 1968.

As a result of the changes brought about by the Military Justice Act of 1968 any person who is tried and convicted by any type of court-martial which has been finally reviewed but was not reviewed by a Court of Military Review, may make application to The Judge Advocate General for relief pursuant to the provisions of Article 69. Some form of relief has been granted in approximately 20% of the cases received during the last year. There has been a continuing increase in the number of applications received and this appears to be the trend for the future.

Plans now in effect provide for one central confinement facility for all Air Force prisoners, except those sent to the disciplinary barracks, who were tried in the continental United States. The facility

will be located at Lowry Air Force Base. This should substantially increase the number of prisoners ultimately transferred to the Retraining Group and will allow more airmen to be returned to duty with the full benefits of the retraining program

Litigation Division

The number of new cases in which the Air Force is involved showed a small increase during the past fiscal year. During fiscal year 1970, 312 new cases were received in the Division and 285 cases were closed. The comparable figures for the previous fiscal year were 284 and 332, respectively. The Division effected collections of \$331,751.13, representing judgments in favor of and debts owing to the Air Force.

In the area of tort litigation, court decisions have continued to reaffirm the rule that suits may not be brought against the Government under the Federal Tort Claims Act as a result of death or injury to certain categories of personnel. These categories include servicemen killed or injured incident to their military service; Civil Air Patrol members who are entitled to other Government statutory benefits as a result of their injuries; and Government civilian employees injured while acting within the scope of their employment. New cases of significant interest were received during the past year. In *Lewis v. United States*, Civil No. 4985-A, U.S.D.C. E.D. Virginia, the plaintiffs brought a wrongful death action

for the death of their 18-year-old daughter, Pamela J. Lewis. Pamela was fatally shot by A1C Eugene W. Montague, who then committed suicide. They had gone together in the past, and Montague had attempted to reestablish their relationship when he returned from overseas. He apparently was unsuccessful and made a suicide gesture which was thwarted by Pamela's father and some Air Force security policemen. Montague was then hospitalized for psychiatric observation at the Malcolm Grow USAF Hospital at Andrews AFB, Maryland, for seven days. The Air Force doctors found that he had a character and behavior disorder, but discerned no evidence of psychotic, suicidal, or homicidal tendencies and, therefore, released him from the hospital. A few days later the tragedy occurred. The plaintiffs contended that the Government had been negligent in releasing Montague from the hospital when it knew, or should have known, that he was of violent tendencies and dangerous to himself and others with whom he came in contact. This case was finally compromised for \$5,000.00. In *Ladson v. United States*, Civil No. 37-70-NN, U.S.D.C. E.D. Virginia, an action filed within the past six months, the plaintiff has alleged, in substance, that an Air Force chaplain performed what she thought was an actual marriage ceremony at Langley AFB, Virginia, between her and an Air Force enlisted man; that in reliance upon the validity of the mar-

riage ceremony she entered into a marital relationship with the airman, became pregnant by him, and had a baby which was delivered stillborn by cesarean section; that she subsequently learned that the marriage ceremony performed by the Air Force chaplain was void and unlawful in that a marriage license had never been procured in accordance with the laws of Virginia; that the Air Force chaplain knew that a marriage license had never been procured; that he was negligent in performing the marriage ceremony without a marriage license; and that as a result of his negligence she sustained severe and grievous pain of mind and body. The chaplain's story is that the alleged marriage ceremony was nothing more than a wedding rehearsal and that the participants knew this as they did not have a marriage license and had agreed to come back the next day with the license and go through the actual marriage ceremony then. He contends, however, that they never appeared the next day.

In the area of general litigation, resort to injunctive relief continues to be a problem although we have been generally successful in obtaining dismissal of these actions. Several decisions in the past months have opened a new arena for appeal by unsuccessful or disgruntled bidders. The landmark decision of *Perkins v. Lukens Steel Company*, 310 U.S. 113 (1940), has stood for the principle that an unsuccessful bidder has no standing to sue the Government for an al-

legedly illegal act it took in awarding a contract. The basis for this long standing rule has been that the regulations and statutes governing the awarding of bids are enacted for the benefit of the public and not for the benefit of bidders. The first major decision to clearly depart from the *Perkins* view was *Scanwell Laboratories, Inc. v. Thomas, Administrator of the Federal Aviation Administration, et al.*, 424 F.2d 859. After a complete coverage of the "standing" cases in the past fifty years and in particular, *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967) and *Friend v. Lee*, 221 F.2d 96 (1955), this Court of Appeals accepted the theory that one "aggrieved" by a Government official's violation of a statute may have standing under the Administrative Procedure Act, 5 U.S.C. Sec. 702, to sue as a "private attorney general" seeking to protect the public interest.

Personnel from the Division continue to represent the Air Force in labor arbitration hearings concerning labor unions seeking unit determinations and in utility rate hearings before state regulatory bodies.

Military Affairs Division

During FY 1970 the Military Affairs Division rendered approximately 46,000 opinions. This figure represents a 4% decrease from FY 1969. Of the opinions rendered, more than 24,000 were in the nature of legal assistance, 10,000 were informal opinions, and

the balance, in descending order, involved review of Physical Evaluation Board Proceedings, security review, incentive awards and some 3,000 formal opinions on a variety of subjects.

Patents Division

During the past fiscal year the Patents Division conducted 314 searches, filed 241 new patent applications, conducted the prosecution of 671 pending applications before the United States Patent Office, disposed of 61 infringement claims, assisted the Department of Justice in 57 suits and processed 1,212 new invention disclosures.

Claims Division

Through May of FY 1970 we paid out over \$12.0 million in claims and collected over \$4.5 million. The primary source of our collections is hospital recovery and carrier recovery claims. Hospital recovery claims accounted for over \$1.25 million through May 1970. Through May of FY 1970, carrier recoveries amounted to over \$2.7 million.

Air Force generated sonic booms are also still a source of considerable claims. Moreover, the processing of sonic boom claims has required extensive liaison between the Claims Division and personnel of both Government and private industry who are engaged in the development and testing of the supersonic transport. The Division has developed a "boom bin", a data repository of Air Force supersonic flight activity, which has

proven useful in adjudicating sonic boom claims.

The excellent manner in which our Air Force base Staff Judge Advocates have handled their claims responsibilities has prompted increasing their settlement authority from \$500 to \$1,000. The successful processing of vast numbers of claims inevitably requires close and regular contacts between Air Force claims personnel and the moving, warehouse and insurance industries, as well as with private attorneys representing claimants. Through these associations Air Force claims personnel have contributed and learned much that will promote the prompt, equitable and uniform settlement of claims.

Legislative Division

Last year I reported to you on proposals which would effect more formalized and standardized career programs for civilian attorneys with the Government. None of these proposals has yet been adopted, although additional proposals have been made, including S. 3686, introduced in April 1970, which would set up a center in Washington for the continued education of Government attorneys.

The Pirnie Bill. Last September a subcommittee of the House Armed Service Committee held hearings on H. R. 4296, a bill to provide for the procurement and retention of judge advocates and law specialist officers of the armed forces. The Honorable Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve

Affairs, appeared as the prime witness, with back-up provided by The Judge Advocates General of the three services. H. R. 4296 was favorably reported with amendments on 20 October 1969, and passed the House on 2 December 1969. As passed by the House, the bill provides a regular monthly payment of special pay ranging from \$50 per month for a captain, to \$200 per month for colonel and above. In addition, a one-time lump-sum bonus would be offered to young lawyers who complete their active service obligation and who have less than 10 years of commissioned service. This latter bonus, called "continuation pay", would be payable at the rate of two months basic pay for each additional year the young lawyer agrees to extend his active duty service commitment. The bill is awaiting action in the Senate Armed Services Committee.

Jurisdiction over Civilians Overseas. I am sure you are familiar with the jurisdictional void created by the Supreme Court decisions in *Toth v. Quarles*, 350 U.S. 11 (1955), with respect to former servicemen; and *Kinsella v. Singleton*, 361 U.S. 234 (1960), and related cases, with respect to civilians employed by or accompanying the armed forces abroad.

Several abortive attempts have been made in the past to remedy the situation. The lack of success has been due principally to a failure to agree on the best course of action.

In January of 1969, Congressman Bennett introduced H. R. 4225 which would confer jurisdiction on U. S. District Courts to try former servicemen and civilians accompanying the armed forces. The Department of Defense expressed its agreement with the objectives of the bill, generally, but pointed out certain deficiencies and proposed substitute bills. The substitute

bills—H. R. 18547 and H. R. 18548—introduced on 21 July 1970, would vest jurisdiction in the U. S. District Courts and extend to overseas the Federal penal statutes which now apply to acts committed within the special maritime and territorial jurisdiction of the United States. Specific authority to arrest such offenders would also be provided.



LEGISLATIVE REPORT

Despite continued efforts by members of the JAA and, indeed, the Secretary of Defense, to pry the Pirnie-Inouye bill out of the Senate Armed Services Committee for a hearing, the House-passed bill died in Committee last session. It was re-introduced this year by Congressman Pirnie on the House side as H.R. 4606 and Senator Inouye in the Senate as S. 704. Co-sponsors in the Senate include: Senators Allen, Bible, Cooper, Dole, Eastman, Ervin, Goldwater, Hart, Hollings, Humphrey, Jackson, Javits, Magnuson, Metcalf, Montoya, Pastore, Pell, Stevens, Thurmond, Tunney and Williams. It is DOD Legislative Item 21.

The bill is substantially unchanged. It provides monthly special pay to JAs: 0-1, 0-2 and 0-3, of \$50; 0-4 and 0-5, \$150; and, 0-6 and above, \$200. Additionally, JAs with less than 10 years service who have completed their initial active service commitment and agree to stay 3-6 years longer will be paid two months' basic pay for each year of extended services, payable annually or semi-annually during the extended period.

The Bennett bill, H.R. 523 provides statutory regulation for administrative discharges under less than honorable conditions. The bill spells out the reasons for which such discharges may be issued and provides opportunity for a board hearing, process, and qualified

counsel. The JAA has previously endorsed similar legislation in principle. DOD supports the bill with, however, certain revisions. One such revision is that the Board of Review for hearings under the proposed system be appointed by The Judge Advocate General in each Service.

Bills to authorize two Rear Admirals in the reserve component of The Judge Advocate General's Corps of the Navy has been introduced by Congressman Pirnie, H.R. 5478, and Congressman Brinkley, H.R. 5442. Although not included as a DOD item because of priorities, the bill is in fact supported by The Department of the Navy.

A comprehensive revision of the U.S. system of Military Justice has been introduced by Senator Bayh, S. 1127. The bill would authorize TJAGs of each Service to establish in various commands: a Judicial Division comprised of Military Judges; a Prosecution Division which would decide who would be prosecuted; a Defense Division which would have authority to seek collateral relief in Federal courts; and, an Administrative Division which would convene all courts-martial. General courts-martial would have seven members selected at random and Special courts-martial, three members similarly selected. Military Judges would be invested with authority

under the All Writs Act. They would set bail, conduct pre-trial examinations and forward charges to the Prosecution Division, and may defer service of a sentence pending review if the accused would not be likely to flee or be a danger to the community. The

Court of Military Appeals would be expanded to nine judges and its decisions would be subject to writs of certiorari to the Supreme Court. In other words, the bill would go far to conform the procedures of military justice to those currently used in federal civilian practice.





Lt. Col. Osmer C. Fitts, AUS-Ret.

THE PRESIDENT

Lt. Col. Osmer C. Fitts, AUS-Ret. was elected President of the Judge Advocates Association at the 1970 Annual Meeting in St. Louis. Colonel Fitts joined the Association in 1943 while a student at the Judge Advocate General's School in Ann Arbor. His interest and active participation in the Association has continued since that date.

Col. Fitts, a graduate of Dartmouth and Harvard, a member of the Bar of Massachusetts and Vermont, has practiced in Brattleboro since 1930. He is a member of the American College of Trial Lawyers and was Chairman of the House of Delegates of the American Bar Association in the years 1960-1962.

GENERAL GREEN DIES

Major General Thomas H. Green, The Judge Advocate General of the Army from December 1945 to December 1949, died at Tucson, Arizona in March 1971 at the age of 82 years.

He graduated from Boston University in 1915 and was admitted to the Bar of the Commonwealth of Massachusetts and entered into the practice of law in Boston that same year. In 1916 he was called to Federal service with the Massachusetts National Guard for service on the Mexican Border. A year later he was commissioned 2nd Lieutenant of Cavalry in the Regular Army.

In March 1918 he went to France with the 15th Cavalry participating in the Meuse-Argonne Offensive, rose to the rank of Major and commanded his Regiment before its return to the United States. He remained in the Regular Army.

In 1923 he received his Master of Laws degree at George Washington University, and in the following year he was transferred to the Judge Advocate General's Department. During the peace-time years he held various assignments as Judge Advocate until 1940 when he was named Judge Advocate of the Hawaiian Department. Following Pearl Harbor and the imposition of military government in Hawaii, General Green became the Executive to the Military Governor and was promoted to Brigadier General in May 1942. In 1943 he returned to Washington and became Assistant Judge Advocate General and in 1944 was designated The Deputy Judge Advocate General, serving with the late Major General Myron C. Cramer, then The Judge Advocate General. On 1 December 1945 he was named The Judge Advocate General.

Following retirement in 1949, General Green taught constitutional law at the Law School of the University of Arizona, and until his death continued to spend his summers in Moravia, New York, and his winters in Tucson.

General Green was a man of disarming candor, without pretense and always kind, and genial. He was closely associated with the Judge Advocates Association since its founding. We mourn his passing.



GENERAL HOOVER DIES

Major General Hubert D. Hoover, a native of Iowa, died at Walter Reed Army Medical Center in April 1971 at the age of 83 years. General Hoover served as The Assistant Judge Advocate General from December 1945 to December 1949. He was a member of the Bar of the States of New York, California and the District of Columbia. Before his military service, he practiced in California. During World War II he was Assistant Judge Advocate General in charge of the North African-Mediterranean Branch Office of The Judge Advocate General.

General Hoover was a quiet, efficient and kind gentlemen, widely recognized as a lawyer's lawyer. After retirement he resided in the Maryland suburbs of Washington.



DIRECTORY OF MEMBERS—1971

A Directory is in process of compilation but it is hoped that more of the members will pay their current year's dues to assure their listing. If you have not paid your dues for 1971, please do so immediately and make certain that the Association has a correct address for your listing.

ABA's LAWYER PLACEMENT INFORMATION SERVICE

by Frances Utley*

Among the many programs offered by the American Bar Association of special interest to lawyers within the armed forces, the Lawyer Placement Information Service is the one directed to the military lawyer's special needs at the termination of his service career.

Two groups can find the LPIS useful; lawyers terminating an initial tour of duty and career lawyers completing twenty to thirty years in service. Both have special assets and liabilities in their search for a civilian legal career. It is the purpose of the LPIS to maximize the assets and minimize the liabilities. Let us look first at the problems of the young lawyer completing an initial tour of duty.

The major liability faced by the young lawyer seeking a civilian position is usually the location of his current duty station.

Often he is geographically far removed from the location desired. The program and procedures offered by the Lawyer Placement Information Service mean that this young lawyer by taking time to carefully prepare a single resume can search for a position for six months prior to the completion of his service commitment no matter where he may be stationed. We

have seen young men located in Viet Nam who have successfully initiated a search for a position with interviews ready and waiting the moment their service was completed. Commanding officers welcome the fact that beyond the preparation of the resume, no duty time is taken in job-hunting efforts, but rather the young lawyer need only acknowledge contacts by interested employers.

The young lawyer himself has a particular advantage in seeking a new position in the degree of employer interest which has been demonstrated. The excellent training and experience which he has received in the Service, plus the maximum responsibilities permitted, make him popular in the consideration of prospective employers. Indeed, our experience in the LPIS indicates that employers will consider returning servicemen in preference to law school graduates for that very reason.

On the other hand, the career officer faces a different set of assets and liabilities. Of all the lawyers in the country, perhaps no one else is free to consider so broad a range of possibilities as is the career service lawyer because of the financial independence offered by his retirement pay. For

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example, it can provide a comfortable buffer to the economic adjustments that moving into a state in which he has not yet been admitted may impose.

The career lawyer also usually has the advantage of considerable administrative experience. This tends to make him an ideal candidate for the increasing number of opportunities where administrative skill as well as legal experience are prerequisites for the position. Because this type of opportunity is so often "off-beat" in relationship to the more traditional types of practice, it can offer particular interest and challenge.

On the other hand, the career lawyer in searching for a position has one particular disadvantage. An often expressed fear on the part of prospective employers is that the service lawyer is conditioned to a "captive client" and may have difficulty in adjusting to the need implicit in most legal positions of attracting and holding clients, which holds true even if the client is also the employer.

LPIS is glad to advise regarding possibilities for overcoming this problem, but we find that most career lawyers, once they understand this attitude of employers, are readily able to adjust their approach to meet the unspoken question.

But what specifically does the Lawyer Placement Information Service do to meet the relocation needs of service lawyers? First of all, and possibly the most important, is that each individual regis-

tering with the Service to receive its assistance is dealt with on an individual basis. True, the Service is geared to handling its exchange of information between employers and applicants by mail, but the basis on which the exchange is developed is a personal review of the professional qualifications offered by the applicant in relationship to the specified needs of the employer. This is far from a case of having little holes matching little dots.

Each individual is dealt with specifically in terms of his individual needs and desires while his professional experience is related to the specifications of employers. Indeed, it is one of the policies of the Service that an introduction is always made where there is a possibility of mutual interest between the employer and the lawyer seeking a position. Such an introduction may not prove to be fruitful, but this is a decision which is left to the parties involved and not restricted by reason of artificial determinations.

This service of introduction is provided at nominal cost to the individual member of the ABA. However, employers pay a far more substantial service charge in order to have the opportunity to receive the resumes of qualified individuals.

One special service provided by the LPIS without cost to the members of the profession is its counseling and advisory assistance. This can be particularly important for lawyers who have been re-

moved from the job market for twenty to thirty years and who want to know what they may reasonably expect along the lines of their particular needs and interests. To receive this assistance all that is necessary is a letter outlining basic information regarding practice experience and the asking of any particular questions which the individual may have. Of course, there may be areas on which no information whatsoever is available, but even such an answer may be of assistance by avoiding a fruitless quest.

For example, occasionally we have inquiries from lawyers in the armed forces whose experience has been in a field so particularly directed to service interests that carrying this experience over into civilian practice may be extremely difficult. Here we try to suggest possible employers or areas that might be feasible through relationships of various technologies.

Such a one might be the individual with whom we counseled recently whose service experience had been directed to pollution resulting from rocket and missile launchings. We make no claim to having all the answers. We do claim to making every possible effort to offer assistance.

The LPIS, as with the American Bar Association, offers the service lawyer an often overlooked advantage. It keeps him in the mainstream of the profession. Natural community of interests results in an organization such as the Judge Advocates Association.

Beyond that, however, lawyers often do not realize the importance of being an integral and essential part of the total professional picture.

To mention one benefit alone. No isolated group within the profession can enjoy the advantages that may be had from an escalation of compensation within the mainstream of the profession. The very pressure engendered by the large numbers involved insures the farthest reaching results. Although not an obvious service, the very fact that the LPIS provides an exchange of information on career areas that cover the entire nation and the entire profession puts the lawyer utilizing its facilities within the competitive pattern of the entire profession.

No comment on the particular advantages enjoyed by service lawyers in their search for civilian legal positions would be complete without a special mention, and commendation of, the adaptability of their wives to the demands of their careers. I doubt that any other group of lawyers can so readily claim helpmates not only experienced in, but willing to, make such relocations and adjustments as may be necessary than those ladies who have already demonstrated this ability in meeting the challenges of their husbands' service career. Because this asset is not one which all lawyers enjoy, it is to be doubly cherished.

November 10, 1970

HODSON DEFENDS MILITARY JUSTICE

Major General Kenneth J. Hodson, The Judge Advocate General of the Army, appeared as guest speaker at the meeting of the John P. Oliver Chapter of the Association in Los Angeles in September. He took the occasion to express his view that the military system of justice is not only equal to the brand of justice administered in civilian courts, but, in many cases, more advanced. The General pointed out that since 1969 the military judicial system has reached an all time high in unpopularity. He blamed this trend on sensational news reporting of cases involving military participation in anti-war demonstrations, anti-Vietnam writers, convicted GIs and the general anti-military and anti-establishment trends among youth. General Hodson said, "Contrary to what our critics say, a man does not give up his constitutional rights when he is in the military. The authors of the Constitution made a distinction between military and civilian rights."

"The soldier has the right to search and seizure protection, speedy trial, council and all of the other integral requirements for justice."

"As a matter of fact the military man has some rights that are not given by the state courts. Some of these include the right to counsel and a copy of the transcript at an investigative hearing and the right

to see all of the prosecution's case prior to the court-martial.

The General answered three basic criticisms of the military system with these comments:

The military should have a grand jury: "The grand jury is the only remnant left over from the Star Chamber Court in England. It is more of a handicap than a right. I think it should be abolished except in investigations of official misconduct." He noted that the military pretrial investigation gives the accused much greater rights than he has in civilian courts.

The accused is not tried by his peers: "When in the civilian courts does a person have a jury of his peers? Could a Black Panther have a jury of his peers? Most states have a test a jury member must pass. In at least 50 per cent of the cases the defendant could not pass this test, therefore, he is not being tried by his peers."

"Command influence" prejudices the trial: General Hodson compared a District Attorney trying to make a good record in civilian life to the commanding officer who is trying to increase his efficiency rating by having the *least* number of court martials possible. He stated, "I can remember a few years back when people were charging that the defendant could

not get a fair trial since the public defender was paid by the same office as the district attorney. The counsel in military courts go all out for the defendants."

General Hodson listed advantages the military system has which are absent in most civilian courts:

1. A man charged with a minor offense is not formally prosecuted, leaving no record.

2. There is complete discovery, with the prosecution disclosing the entire case to the defense counsel.

3. The convicted person is given a complete transcript of the proceedings free.

4. There is an automatic review on appeal.

5. The appellant is offered independent counsel free of charge.

6. There is an automatic review of the sentence with only the possibility of reducing it.

7. At each level of appeal the factual background of the case is reviewed.

General Hodson stated that he was cognizant that no system of justice is perfect and constructive proposals for the improvement of the military system are under continuing consideration. He observed that most critics of the military justice system are ignorant of the system.



NEW TJAG AND ASSISTANT NAMED FOR ARMY

Brigadier General George S. Prugh has been nominated for promotion to Major General and for the position of The Judge Advocate General of the Army. Brigadier General Harold E. Parker has been nominated for the position of The Assistant Judge Advocate General and promotion to Major General. The effective date of the promotions is 1 July 1971. Major General Kenneth J. Hodson will retire as The Judge Advocate General on that date.

In Memoriam

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

Mr. Samuel W. Block, Chicago, Illinois
Cdr. George T. Boland, USN-Ret., Hawaii
Capt. Anthony J. Caliendo, USCG-Ret., District of Columbia
Col. Francis X. Daly, USAFR-Ret., District of Columbia
Col. Albert J. Ellis, USAR-Ret., Jacksonville, N. C.
Col. Hugh Fullerton, USAR-Ret., District of Columbia
Maj. Gen. Thomas H. Green, USA-Ret., Moravia, New York
Col. Tom B. Hembree, USA-Ret., Joplin, Missouri
Maj. Gen. Hubert D. Hoover, USA-Ret., Silver Spring, Maryland
Col. Fred Mancuso, USAR-Ret., Kansas City, Missouri
Mr. Clarence C. Neslen, Salt Lake City, Utah
Cdr. John W. Shields, USNR-Ret., North Kingston, Rhode Island
Cdr. Clifford R. Stearns, USNR-Ret., District of Columbia
Capt. William C. Stephens, USAR-Ret., Centralia, Illinois
Col. Norbert A. Theodore, USAR-Ret., Columbia, South Carolina
Lt. Col. John W. Yates, USAF-Ret., Miami, Florida

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

AN ADEQUATE DEFENSE POSTURE FOR PEACE

Major General Glenn C. Ames*

In the spring of 1969, Melvin Laird, the Secretary of Defense, was quoted in *Fortune* as follows: "Even if we are successful in eliminating the war in Viet Nam, we are still not going to come up with a drastically reduced defense budget—a drastically reduced defense budget will not provide adequate security in the world in which we live". This I believe to be a true statement. Nothing, in my opinion, has transpired since the spring of 1969 which could change it. In fact, Mr. Laird again addressed himself to this problem when he said in an address before the Economic Club of New York in November of last year "We are now planning for actions beyond FY 1971, which is a year of transition. We are preparing to make some tough, hard decisions for the decade ahead of us. As expected, our waiting time is running out. For several reasons I believe that we cannot look forward to any further significant reductions in total defense spending. It appears much more likely that the defense budget must at least remain stable in terms of real purchasing power. I see some strong and convincing evidence for possible defense budget increases in order to meet

urgent requirements, many of them too long deferred".

All of us are encouraged by the progress in Viet Nam. Particularly, the dramatic curtailment of military engagements with a resultant lowering of casualties and the reduction of troop levels there. There will be even greater cause for rejoicing when the fighting has ceased altogether. Unfortunately, this wind-down of the war in Viet Nam is not bringing about as great a reduction in defense costs as many had hoped it might—continuing inflation has wiped out much of the expected gains. Thus the pressures to cut still deeper are very strong.

Any consideration of current defense budgets should include a survey of the mistakes and lessons of the past.

Consider the 20s and 30s—years of growing isolation as we "returned to normalcy", and then remember the traumatic experience we went through in our inability to deter aggression. Many consider that this naturally hastened World War II. Our subsequent lengthy build-up after Pearl Harbor was required before we could begin to turn the tide.

* General Ames is the Commanding General of the California National Guard. This article is the address he delivered to the Northern California Chapter of the Judge Advocates Association at San Francisco on 15 January 1971. General Ames is a member of the Bar of the State of California and a member of this Association.

Yet we decimated our armed forces following World War II. With the advent of Korea we went once again into an expensive and wasteful emergency build-up to meet that situation. Again in the middle 60s, we had to learn the hard way what a straining and costly experience it was to field a fighting Army in Viet Nam because of the foolhardy cuts following our Korean fighting.

The principal points of these arguments were summed up very well by former Secretary of State Dean Acheson in testimony before Congress in 1969. He said, "In the more than 70 years which I have been conscious of the world around me, I have been strongly impressed that Congress throughout this entire time has underspent rather than overspent on the defense of the United States—I see no basis for the notion that we tend to overdo the military aspects. To the contrary, the nation has repeatedly neglected to provide a military basis to match its policy or to cope with aggressive forces. We tried unilateral arms reduction in the inter-war period. We got Pearl Harbor. We reverted to habit after World War II. We got the Korean War—we have always been unprepared for conflict. Our wars as a result have lasted too long. The casualties have been too high".

To assess properly what our defenses posture should be in the years ahead, we have to be aware of the real state of the world in which we live, the "now" world of

at least nuclear parity between the major powers. A quick look around the globe reveals very little from which we can take comfort.

As you have read, one of the first acts of the Nixon Administration was to examine the scope and extent of our overseas commitments—and many they were—some based on negotiated treaties, some traditional, others vague and illusory, some based purely upon acts done in reliance upon the American umbrella and shield.

Some view our involvement in Southeast Asia as transient—something which we ultimately can wind up once and for all. They seem to forget that three times in a single generation Americans have crossed the Pacific to fight in Asia and we are still fighting there. No single area of the world has engaged more of our energies in the post World War II period. President Nixon has made it clear in his Report to The Congress on United States Foreign Policy in The 1970s, that it will continue to be in the national interest for the United States to remain involved in Asia. In the President's words, "We are a Pacific Power. We have learned that peace for us is much less likely if there is no peace in Asia".

The uneasy cease fire in the Middle East is both troubling and dangerous. A truly peaceful solution in that area in the near future seems doubtful indeed.

Africa is one Continent in which we have not yet become involved militarily and we would hope that

we never will have to. However, it is another continent in ferment and it will be a long time before it has any substantial contribution to make to world peace and stability.

We have a special relationship with our neighbors in Latin America and certainly there are compelling reasons for strengthening our ties. The instability in some areas of Latin America poses a threat to peace in the Western Hemisphere which we would be foolish to ignore. The recent furor regarding a possible Russian submarine base in Cuba is an example of the kind of problem which can crop up almost in our own backyard.

Paramount, however, is our NATO alliance in Europe. President Nixon's foreign policy report contains a good summation of the importance we place on our alliance there. "The peace of Europe is crucial to the peace of the world. This truth, a lesson learned at terrible cost twice before in the twentieth century, is a central principle of the United States foreign policy. For the foreseeable future, Europe must be the cornerstone of the structuring of a durable peace." At present we have a force of about 285,000 men in Europe as our contribution to NATO. American forces on the continent are at the lowest since 1951, and amount to only 20% of total NATO forces there.

It should be emphasized that these forces are not there to protect Europeans who are unable or unwilling to protect themselves.

They are in Europe to assure our own security.

Our troops in Europe maintain stability. They are not just a thin trip-wire intended to show that any conventional attack would trigger a nuclear response. Nor are they intended, without reinforcement, to be able to defeat a sudden all-out attack by the Warsaw Pact. Instead, our European deployments are part of a strategy of flexible response. We have tailored our conventional forces to be strong enough to deal with threats below the nuclear level, including miscalculations by the Warsaw Pact or NATO resolve and capability.

Where do our national interests really lie and how can we protect them? It is part of the President's foreign policy to assure our allies that the United States will keep all of its treaty commitments. He has said further that we should provide a shield if a nuclear power threatens the freedom of the nations allied with us, or threatens a nation whose survival we consider vital to our security and the security of the region as a whole. Further, he said that we shall provide military and economic assistance when requested and appropriate. He made it clear that we shall look to our allies to discharge the primary responsibility of providing the manpower for their own defense.

Much has been said about the Nixon Doctrine. First, what it is? Its central thesis is that the United States will participate in the de-

fense and development of allies and friends; but that our nation cannot—and will not—undertake all the task of defending the free nations of the world. We will help where we can make a real difference, and where our interest dictates. In practical terms, the Nixon doctrine calls first for honoring of United States treaty commitments. As the President said, "America cannot live in isolation if it expects to live in peace. We have no intention of withdrawing from the world."

Secondly, the Nixon Doctrine transfers greater responsibility for self-protection to our allies, particularly with respect to military power. It places greater reliance on our military assistance to allies in the form of equipment and training support. Thus, it obviously has an impact on our armed forces—both in their size and its mission and when I say armed forces I mean the active establishment as well as the National Guard and Reserve Components. We are *all* in this together. It should then be obvious that the Nixon Doctrine does not espouse isolationism. It recognizes that the U.S. has commitments which must be honored. We cannot, and do not intend, to shut ourselves off from the rest of the world.

But this intention would have little significance if it were not clearly understood by other nations. In such case, our adversaries might be encouraged to use the threat of military pressure to achieve political domination. And

our allies believing themselves abandoned, might make such arrangements as they could to protect themselves. We must, therefore, maintain a level of projectable and believable military power sufficient to make our commitments credible, if there is to be real hope of keeping the peace.

This brings to mind some questions which we must consider as the process of restructuring our defense posture begins in earnest. It is essential and desirable in the national economy to reduce outlays for national defense to the minimum practicable. But there is a definite point beyond which we cannot go wisely. As President Kennedy once said: "There can be only one defense policy for the United States. It can be expressed in one word. The word is first.

"I do not mean first but.

"I do not mean first when.

"I do not mean first if.

"I mean first period."

In many respects we are no longer first—and certainly if the budget cutting suggestions already made are carried out our defense posture will be weakened even more.

In the past year, the administration has made serious changes in our national defense strategy, and if the new and further cuts now being discussed are made, we will be forced into a posture of even greater reliance on nuclear deterrence than when we had the long-since discredited policy of "massive retaliation" back in the

1950s and this despite the fact that the communist nuclear capability now apparently more than matches our own.

In this day of nuclear stand-off, conventional or general purpose forces provide the only flexibility in defense. As far as these forces are concerned the new strategy is called the "one and one half war strategy" and provides that general purpose forces will be maintained in peacetime adequate for meeting simultaneously a major communist attack in either Europe or Asia, assisting allies against non-Chinese threats in Asia and contending with a contingency elsewhere.

This strategy, of course, has to be viewed in the context of the rest of our foreign policy and actual world conditions. And there are differences between the professional military leaders and their civilian counterparts as to what forces are necessary to carry out even this modified strategy.

The announced policy to reduce the size of our forces stationed overseas and the drastic reductions planned for our active duty armed forces will limit severely our ability to apply national power as promptly as may be necessary in emergencies. We are deeply concerned therefore, that a strategy dictated primarily by budgetary considerations contains risks too dangerous to assume. Severe reductions invite a loss of credibility in our deterrent capability and our will to use it. And a weakened defense posture could tempt more ad-

versary military adventures. It has done so throughout history.

Just how serious are the cuts in the defense establishment which are being considered? Here are some published planning figures which are indicative.

What is being advocated is much more than just scaling down the Vietnam "add-on" which saw our total forces increase by 805,000 men and the defense budget increase by 26 billion dollars between 1965 and 1969. The planners are talking about a reduction of military personnel from a high of 3,547,092 in 1968 to about 2,000,000 in 1972. That's a reduction of over 1 million 500 thousand. Almost twice as much as our Viet Nam buildup. They are talking about a cut in Army and Marine Corps divisions from a high of 22 in 1968 to 16 in 1972—A 6 division reduction. Some planners visualize that the Army's size might go as low as 750,000 which is more than 100,000 below where it fell during those austere years following the Korean conflict.

Naval ships would be cut from 932 in 1968 to 570 in 1972—A drop of 362 vessels. Not included in these numbers are the 4 attack carriers that would be dropped from the 1965 high of 16.

The tactical air wings of the Air Force would drop from 29 to 17, and our B52's would be cut by more than 50% from a high of 694 in 1965 to 325 in 1972.

All this would amount to a shocking reduction in our defense pos-

ture, one which should deeply concern us all.

It should concern us especially because it is based on a substantially revised estimate of the threat facing our country—an estimate, made by President Nixon's civilian strategists, with which the Joint Chiefs of Staff do not agree. The chairman of the Joint Chiefs, Admiral Moorer has said, "the threat is there and we get paid to tell Americans it is there. If we get caught with insufficient forces, we're accused of dereliction of duty. But today we're also blamed for saying a threat exists. It all boils down to whether or not the U.S. is going to protect and maintain its interest as a world power."

Probably the great difference between the administration's civilian strategists and the professional military men stems from their approach to the problem. The military take into account enemy *capabilities* in determining what forces the U.S. should have. The civilian strategists seem to rely much more on enemy *intentions*. This involves making judgments or guesses about present and unforeseeable political factors. We have seen little concerning progress in the SALT Talks, bases in Cuba, or missiles to Egypt to say nothing of their growing military might that would indicate a real lessening of Russian's long-sustained penchant for trouble-making—rather, she still seems not reluctant to take advantage of any weakness.

Mr. Acheson described it thus: "The Soviet Union has many intentions, not one intention. These intentions have several priorities. The central, the heart, and inner intention is to protect the regime in every way. That never changes. They will not compromise on that.—There is another intention which has been in existence since the very beginning of the Communist organization and that is probing weakness on the outside. Wherever there are weaknesses, probe. Do not get in so deep that you might involve yourself in irredeemable trouble. But if there is give, push until the give stops."

The cause of peace has no more ardent advocates than those who have been to war. The soldier above all other people prays for peace, for he must suffer and bear the deepest wounds and scars of war. We agree with President Nixon when he says that America's strength is one of the pillars in the structure of a durable peace. He puts it this way: "Peace requires strength. So long as there are those who would threaten our vital interests and those of our allies with military force, we must be strong. American weakness could tempt would be aggressors to make dangerous miscalculations." He goes on to say that we cannot trust our future entirely to the self restraint of countries that have not hesitated to use their power even against their allies,—to which we say "Amen".

The principal objective of United States military power is to deter

war by having sufficient and credible power to maintain peace.—We cannot have this without paying for it. We cannot afford to be without it.

I offer you no conclusions, no summation, no solutions. I have discussed today only general considerations. This is because the conclusions and decisions must inevitably be political ones. The competition and demand for federal dollars today is without parallel in our history. A considerable segment of our citizenry, and perhaps a majority, say that the dollars necessary to support an adequate defense posture, must instead be channeled into domestic programs—programs designed to solve the most considerable and quite apparent ills of the urban areas; the elimination of poverty and hunger; massive medical research to defeat the great killers of man—cancer, heart disease, hypertension; the immediate elimination of environmental pollution which most surely is destroying the place in which we live. The demonstrated need for these programs and the desire to provide a decent living for all people, including the nomad, the dependent by choice and the ones who won't accept the responsibility of earning their own living, has caused many congressmen to underestimate the omnipresence of Russia and the Communist world, to "wish away" the threat and the need for an effective deterrent, to take the calculated risk. There are others that are fully committed to the anti-military line, both within

the news media's corps of opinion-shapers and the halls of congress. Ambitious, articulate men daily voice this anti-military line—they take the excess, the lack of judgment of a few and turn it into a condemnation of the whole system and all of those in it. What we once proudly referred to in World War II as the "arsenal of democracy" has now been tagged as the "military-industrial complex" and somehow made suspect, reminiscent of the infamous foreign cartels of years gone by. The military recently lost its greatest friend and champion, the distinguished chairman of the House Armed Services Committee, Mendell Rivers. He was the consummate politician, adroit and completely dedicated to a strong defense posture. He was as good a friend to the GI as he was to nuclear superiority, the ABM. If you doubt his adriotness, check the military base closures in Senator Goodell's state last year. Happily, that state is now Senator Buckley's. Mr. Rivers probably will be replaced by another friend of the military—no less dedicated—Eddie Hebert of Louisiana. But the champions of the military are running out. The new crop of freshmen in congress includes several announced anti-military men and women, peace and freedom party candidates.

Coupled with this competition for dollars is the emerging realization that there is in fact a limit for taxation, that the ability of the American people and American business to pay more taxes as the

need arises has a limit beyond which there are only diminishing returns.

Our national administration must steer a perilous course, must somehow delicately balance the need, the immediacy of the need,

for solution of our pressing domestic problems with the continuous need for a defense posture capable of preventing both general war and nuclear war. For if we don't do the latter, the relevancy of the former becomes academic.

SHORT COURSE FOR DEFENSE LAWYERS IN CRIMINAL CASES AND FOR PROSECUTING ATTORNEYS

The 14th Annual *Short Course for Defense Lawyers in Criminal Cases* will be conducted this Summer by Northwestern University School of Law during the five-day period July 19-July 24, 1971. Leading defense lawyers and other authorities will discuss: *Trial Techniques—Recent Developments in the Law of Arrest, Search and Seizure, and Confessions — Discovery of Prosecution and Defense Evidence — Severances — Eye-Witness Identifications — Scientific Crime Detection and Scientific Proof — Drunk Driving Cases — State and Federal Post-Conviction Remedies* — and other subjects of importance to defense lawyers.

Attendance is open to all attorneys interested in the practice of criminal law; to legal personnel in the Armed Forces; and to law professors.

Northwestern University will also conduct its 26th Annual Short Course for Prosecuting Attorneys during the five-day period August 2-August 7, 1971.

The subjects to be discussed by experience prosecutors, legal authorities, and scientific experts will include *Trial Techniques — Recent Developments in the Law of Arrest, Search and Seizure, and Confessions — Scientific Proof — Tactics and Techniques in the Interrogation of Criminal Suspects — Meeting Motions to Suppress Eye-Witness Identification Evidence — The Prosecution of Drunk Driving Cases* — and other subjects of importance to prosecuting attorneys.

Attendance at the prosecutors' course is limited to attorneys holding state, city, or federal offices as prosecutor or assistant prosecutor; to attorneys who are nominees for such office at the next election; to legal personnel in the Armed Forces; and to law professors.

Copies of the course programs, or other information, may be obtained by writing to Professor Fred E. Inbau, *Northwestern University School of Law, Chicago, Illinois 60611.*

What The Members Are Doing . . .

CALIFORNIA:

The John P. Oliver Chapter of the Judge Advocates Association at its annual meeting in January elected Col. Robert E. Walker, USAR, Los Angeles, President; Lt. Col. Jess Whitehill, USAR, Los Angeles, 1st Vice President; Brig. Gen. Robert D. Upp, USAR, 2nd Vice President; Col. James C. Bigler, USMC-Ret., Los Angeles, 3rd Vice President; and, Col. Mitchell A. Zitlin, USAR, Los Angeles, Secretary-Treasurer.

The Executive Board is: Col. John F. Aiso, Lt. Col. S. M. Dana, Maj. Philip G. Gallant, Col. Milnor E. Gleaves, Maj. Marvin Greene, Lt. Col. Clarence L. Hancock, Capt. Guy C. Hunt, Lt. Col. Arthur T. Jones, Maj. George Kalinski, Maj. Arthur Karma, CWO George W. Miley, Lt. Col. William H. Peterson, Col. Richard L. Riemer, Lt. Col. Herbert Ross and Lt. Col. John C. Spence, Jr. The retiring President is Lt. Col. David I. Lippert.

At the January meeting, Mr. Lewis M. Brown, Chairman of the Standing Committee on Legal Assistance for Servicemen, was the guest speaker.

The Northern California Chapter JAA met on 15 January, 1971 at the Naval Officer's Club on Treasure Island. Col. William L. Shaw presided. The guest speaker

on the occasion was Major Gen. Glenn C. Ames whose address is reported elsewhere in this Journal. About sixty members of the Association attended the meeting.

COLORADO:

Brig. Gen. Martin Menter has retired as SJA of the Continental Air Defense Command and has resumed residence in Chevy Chase, Maryland.

Lt. Col. Howard J. Otis, USAF-Ret. has been appointed by Governor Love as County Judge of Adams County. Colonel Otis had heretofore served as Assistant Attorney General for the State of Colorado in charge of the Consumer Fraud Division, and later as Deputy District Attorney in Arapahoe County, Colorado. He resides in Aurora.

DISTRICT OF COLUMBIA:

Colonel Edward H. Young, well known as the Commandant of The Judge Advocates General School at Ann Arbor during World War II, has married Miss Margaret Salmon. Miss Salmon, too is well known in JA circles as the private secretary to TJAG's. The Youngs make their home at 2401 Calvert Street N.W., Washington.

Maj. Stanley J. Glod, USAR, has become a member of the firm of

Sutton, Shull & O'Rourke with offices at Washington, D.C. and Colorado Springs, Colorado. The Shull in the firm name is Brig. Gen. Lewis F. Shull, USA-Ret.

Lt. Cdr. Donald H. Dalton, USNR, announces the formation of a partnership for the practice of law under the name of Dalton & Molnar with offices in the Federal Bar Building West, Washington.

Col. Smith W. Brookhart, USAR-Ret. has announced the removal of his offices to 888 17th Street N.W. where he will be counsel to the firm of Worth & Crampton.

INDIANA:

Cdr. Harry J. Harman, USNR-Ret. announces the relocation of his law office at One Indiana Square, Indianapolis. Cdr. Harman practices under the style of Kriner & Harman.

NEW MEXICO:

Col. John Carmody, USA-Ret., formerly Chief Judge of the U.S. Army Judiciary, has resigned as Staff Director of the ABA Section on Judicial Administration and has become Court Administrator of the State of New Mexico. He now resides in Albuquerque.

NEW YORK:

Maj. Benjamin Burstein, USAR-Ret. has announced that his firm has merged with the firm of David Marcus. The firm of Burstein &

Marcus will continue in the general practice of law at Two William Street, White Plains.

OHIO:

Col. Ralph G. Smith, ARNG-Ret. of Columbus has retired from the Ohio National Guard. He served in World War II and Korea. He was for many years Staff Judge Advocate of the Ohio National Guard. Col. Smith is engaged in the general practice of law with the firm of Addison & Smith with offices at 8 E. Broad St., Columbus.

TEXAS:

Colonel Kenneth C. Crawford, USA-Ret., formerly the Commandant of the Judge Advocate General's School at Charlottesville, is the Associate Director of Education for the Southwestern Legal Foundation, a continuing legal education institution located in Dallas. His alma mater, Illinois College in Jacksonville, Illinois awarded him the honorary Doctor of Laws degree in June, 1970.

Col. Leon Jaworski, AUS-Ret. of Houston has been elected as President-elect by the House of Delegates of the American Bar Association. Col. Jaworski is a former member of the President's Commission on the Causes and Prevention of Violence, of the National Citizens Committee for Community Relations and a member of the Commission on Law Enforcement and the Administration of

Justice. He has served as Special Assistant to the U.S. Attorney General and Special Counsel to the Attorney General of Texas. In the ABA he has served as Chairman of the Special Committee on Crime Prevention and Control since 1967.

UTAH:

Colonel George W. Latimer, USAR-Ret. of Salt Lake City is Chairman of the ABA Special Committee on Military Justice.

VIRGINIA:

Colonel George F. Westerman, USA-Ret., formerly Chief Judge of the U.S. Court of Military Review and Administrator of the U.S. Army Judiciary, has been named Staff Director of the Section of Judicial Administration of the American Bar Association.

Colonel John J. Douglass, USA, is the Commandant of the Judge Advocate General's School at Charlottesville.



JUDGE ADVOCATES ASSOCIATION

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OSMER C. FITTS, Vermont	<i>President</i>
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By virtue of office as TJAG or former TJAG:

Kenneth J. Hodson, Maryland; James S. Cheney, Virginia; Joseph B. McDevitt, Virginia; Wilfred Hearn, Virginia; Oswald S. Colclough, Maryland; Charles L. Decker, District of Columbia; George W. Hickman, California; Albert M. Kuhfeld, Ohio; Robert H. McCaw, Virginia; William C. Mott, Maryland; Chester Ward, Hawaii; Robert W. Manss, Virginia.

By virtue of being a past president of JAA:

Penrose L. Albright, Virginia; Nicholas E. Allen, Maryland; Daniel J. Andersen, District of Columbia; Glenn E. Baird, Illinois; Oliver P. Bennett, Iowa; Franklin H. Berry, New Jersey; Maurice F. Biddle, Virginia; Frederick R. Bolton, Michigan; Ralph G. Boyd, Massachusetts; Ernest M. Brannon, Maryland; Robert G. Burke, New York; John H. Finger, California; George H. Hafer, Pennsylvania; Reginald C. Harmon, Virginia; Hugh H. Howell, Georgia; William J. Hughes, Jr., Maryland; Herbert M. Kidner, Virginia; Thomas H. King, Maryland; Allen G. Miller, New Jersey; Alexander Pirnie, New York; Gordon Simpson, Texas.

Executive Secretary and Editor

RICHARD H. LOVE
Washington, D. C.

