

IMPORTANT: Nominating Committee Report on Page 1

This Issue Contains Rules of Practice before Boards of Review
and Courts of Military Appeals

BULLETIN No. 8

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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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JULY, 1951

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

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Report of The Nominating Committee — 1951

Pursuant to the provisions of Section 1, Article IX of the By-laws of the Association, the following were appointed to serve as members of the 1951 Nominating Committee:

Col. Oliver Gasch, JAGC-USAR, Washington, D. C., *Chairman*
Col. Abe McGregor Goff, JAGC-USAR, Moscow, Idaho
Col. Fred Wade, USAFR, Chevy Chase, Maryland
Lt. Col. Francis X. Daly, USAFR, Washington, D. C.
Cmdr. Milton S. Kronheim, Jr., USNR, Washington, D. C.
Maj. Philip Maxeiner, JAGC-USAR, St. Louis, Missouri
Maj. William E. Davis, JAGC-USAR, Birmingham, Alabama

The By-laws provide that the Board of Directors shall be composed of twenty members all subject to annual election. It is also provided that there be a minimum representation on the Board of Directors of three members for each of the Armed Forces: Navy, Army, and Air Force. Accordingly, the slate of nominees for membership on the Board of Directors is divided into three sections; and, the three nominees from each section with the highest plurality of vote within the section shall be considered elected upon the annual election as the representation on the Board of that Armed Force; the remaining eleven positions on the Board will be filled from the nominees receiving the highest number of votes irrespective of their arm of service.

The Nominating Committee conferred and has submitted the following unanimous report which has been filed with the Secretary of the Association as provided in Section 2, Article VI of the By-laws.

SLATE OF NOMINEES FOR OFFICES OF THE ASSOCIATION

Col. John Ritchie, III, JAGC-USAR, Virginia—President (1)
Col. Oliver Bennett, USNG, Iowa—1st Vice President (2)
Brig. Gen. Bert E. Johnson, USAF, Oklahoma—2nd Vice President (3)
Col. Thomas H. King, USAFR, District of Columbia—Secretary
Lt. Col. Edward B. Beale, JAGC-USAR, Maryland—Treasurer (4)
Maj. Gen. Earnest M. Brannon, JAGC-USA, District of Columbia—A.B.A.
Delegate (5)

Note: (1) Presently serving as 1st Vice President
(2) Presently serving as 2nd Vice President
(3) Presently on duty in Washington, D. C., as Assistant Judge Advocate General for the Air Force
(4) Incumbent
(5) Presently on duty in Washington, D. C., as The Judge Advocate General of the Army and presently serving as a member of the Board of Directors of the Association

SLATE OF NOMINEES FOR TWENTY POSITIONS ON THE BOARD OF DIRECTORS

Navy nominees:

Capt. George Bains, USN, Alabama (1)
Capt. Robert G. Burke, USNR, New York

(Continued on next page)

Lt. S. P. Keith, USNR, Alabama

Capt. James J. Robinson, USNR, District of Columbia

Capt. S. B. D. Wood, USN, Hawaii (1)

Note: (1) Presently on duty in the Office of The Judge Advocate General of the Navy in Washington, D. C.

Army nominees:

Col. Joseph A. Avery, JAGC-USAR, Virginia (2)

Capt. Cable G. Ball, JAGC-USAR, Indiana

Brig. Gen. Ralph G. Boyd, JAGC-USAR, Massachusetts (3)

Col. James P. Brice, JAGC-USAR, California

Col. Howard A. Brundage, JAGC-USAR, Illinois (2)

Col. Leigh M. Clark, JAGC-USAR, Alabama

Lt. Col. Reginald Field, JAGC-USAR, Virginia (2)

Maj. Edward F. Gallagher, JAGC-USAR, District of Columbia (2)

Col. Clel Georgetta, JAGC-USAR, Nevada

Col. George F. Guy, USNG, Wyoming

Capt. Edward F. Huber, JAGC-USAR, New York (2)

Col. Arthur Levitt, JAGC-USAR New York (2)

Brig. Gen. Claude B. Mickelwait, JAGC-USA, California (1)

Col. Joseph F. O'Connell, JAGC-USAR, Massachusetts (2)

Brig. Gen. Franklin Riter, JAGC-USAR, Utah (2)

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Col. Gordon Simpson, JAGC-USAR, Texas (2)

Capt. Alden A. Stockard, JAGC-USAR, Missouri

Col. Frederick B. Wiener, JAGC-USAR, District of Columbia

Col. Edward H. Young, JAGC-USA, District of Columbia (1)

Note: (1) On duty in the Office of The Judge Advocate General of the Army, Washington, D. C.

(2) Incumbent

(3) Presently serving as Delegate to the House of Delegates of the American Bar Association

Air Force nominees:

Maj. Louis F. Alyea, USAF, Illinois (1)

Maj. Samuel C. Borzilleri, USAFR, New York

Col. Paul W. Brosman, USAFR, Louisiana (4)

Maj. Gen. Reginald C. Harmon, USAF, Illinois (1) (2)

Brig. Gen. Herbert M. Kidner, USAF, Pennsylvania (1)

Brig. Gen. Albert M. Kuhfeld, USAF, South Dakota (1)

Capt. B. C. Tolley, Jr., USAFR, Virginia

Maj. Milton Zacharias, USAFR, Kansas

Note: (1) On active duty in the Office of The Judge Advocate General of the Air Force, Washington, D. C.

(2) Incumbent

(Continued on next page)

- (4) Member of the Court of Military Appeals on duty in Washington, D. C.

Under provisions of Section 2, Article VI of the By-laws, regular members other than those proposed by the Nominating Committee shall be eligible for election and will have their names included on the printed ballot to be distributed by mail to the membership on or about August 25, provided they are nominated on written endorsement of twenty-five, or more, members of the Association in good standing; provided, further, that such nomination be filed with the Secretary at the Association's offices on or before August 15, 1951.

Balloting will be by mail upon official printed ballots. Ballots will be counted through September 18, 1951. Only ballots submitted by members in good standing as of September 18, 1951, will be counted.

What Happens to the Accused After Conviction

By Colonel B. B. Albert

Organizing and maintaining a democratic army entails the enlistment of a cross-section of American manhood; therefore, it is inevitable that persons who will commit offenses will be included. This is by no means new; throughout history soldiers have committed offenses and have been punished. Records prove that the leaders in Biblical days adopted stern measures to discipline their men. Julius Caesar had a criminal code whereby soldiers who violated rules were punished. Genghis Khan, the Asiatic conqueror, put to death any man who committed even a slight infraction of regulations.

The common conception of the matter in American society today is that ostensibly the reason for the confinement of military prisoners is that they have violated certain of the Articles of War. Since the defense of the nation and the successful prosecution of war are contingent upon the maintenance of an adequate and efficient military establishment and since this manifestly necessitates conformity with and adherence to rules and regulations by its members, American society must insist that offenders be punished. The Articles of The Uniform Code of Military Justice, MCM, 1951, like federal legislation and the codes of the various states, are the expressed will of the people—rules which must be enforced if order is not to give way to chaos and anarchy. Violations cannot be tolerated. Punitive measures serve

as a deterrent to those who, for any one or several of a thousand reasons, may be tempted to perpetrate violations, and they motivate proper conduct and effective action by the vast majority.

Were this the sum and substance of the matter of the incarceration of military offenders, the problem of the control and management of prisoners in disciplinary barracks would indeed be simple. Sentenced to serve a number of months or years at hard labor, they would be compelled to do just that. They would be adequately fed, housed, and clothed, subjected to stern, rigid discipline, and driven to perform the tasks assigned to them. Under compulsion they would render services which might be considered substitutive for the services they failed to render because of their offenses.

The Army refuses to accept this doctrine; having sought the wise counsel of the finest sociologists and penologists, of psychologists and psychiatrists, it has adopted the most advanced scientific and democratic philosophy and practices and put them into effect. The common conception set forth above is by no means the whole story. Here's the Army point of view: (a) The disciplinary barracks inmate is, first of all, an individual, a human being—and in a democratic society whose philosophy is dominated by Christian ethics, his integrity as a human being is both valued and respected. A lone crime, foreign to his composite pattern of behavior, does not result in his alienation. Nor does a series of offenses against justice. No matter who he is or what he has done, he

NOTE: The author is the Commandant of the Branch United States Disciplinary Barracks, New Cumberland, Pennsylvania.

remains entitled to the respect due a man, and only in rare instances—when for example, his crime is particularly heinous or his criminal pattern extremely dangerous to others—is he deprived permanently of the right to live as a free person.

(b) These inmates will all return to society. They will go back to military duty or become civilian citizens. It is obvious, therefore, that simply treating them punitively is not enough. Everybody charged with their safe-keeping and care is obligated to the Army and American society—of which the Army is an integral part—to do everything possible to prepare them for intelligent and successful post-confinement living. (c) This is not a personal opinion. It is the policy of the Department of the Army. To quote from one of our "Bibles," AR 600-395-1, *Administrative Procedures for United States Disciplinary Barracks* "The plan with reference to military prisoners is to maintain custody of such individuals and promote their reformation and rehabilitation with a view to honorable restoration to military duty or return to civil life as useful citizens."

The Army was a pioneer in recognizing that reformation and rehabilitation of offenders are the goals of imprisonment; as long ago as 4 March 1915, the name, *The United States Military Prison*, Fort Leavenworth, Kansas, was changed to the *United States Disciplinary Barracks*. This is the central disciplinary barracks, the focal point of the disciplinary organization of the entire Army. In addition, several branch United States Disciplinary Barracks are maintained by the

Department of the Army in various sections of the country. The fact remains that, *per se*, suggests that the rehabilitative concept predominates over the concept of punishment.

Men who are sent to the disciplinary barracks have been tried and sentenced. Their cases have been reviewed and adjudged. While the Army system of Courts Martial has been widely criticized, it is well to remember a few salient facts about it.

In the vast majority of instances, men tried by General Courts—and all general prisoners have been—have previously appeared before officers for reprimands, company punishment, and constructive guidance and counseling. All offenses which warrant trial are thoroughly investigated before the offenders appear before courts. Every prisoner is entitled to and receives, adequate and thorough defense. Cases are reviewed by competent authorities who are empowered to rectify errors. Disciplinary barracks officials, like those who operate federal state penitentiaries, do not "judge the judges." They accept the findings of duly constituted courts, and proceed from there to do what they can for the offenders.

The prisoner is received and classified. He is immediately given adequate clothing and housing; and through various techniques he is given instruction and indoctrination which foster successful orientation and adjustment to prison life. A comprehensive study of each prisoner is made. Procedures used by the disciplinary barracks are the envy of civilian institutions similar nature, and some authorities on penology

have asserted that precedents are being established which may constructively influence the treatment of prisoners in all kinds of penal and correctional agencies. Social, educational, occupational, and military histories are compiled through interviews by social workers (sociologists), reviews of military records, correspondence with sources of information, *e.g.*, the ARC, schools, physicians, *etc.*, and the integration of facts obtained.

Civilian criminal histories are established through interviewing, finger-printing, and FBI and local police reports. Determinations are made of mental and emotional personality traits, intellectual levels, academic achievement, and aptitudes and capabilities through psychiatric and psychological examination and through education, vocational, and occupational testing. Highly trained psychiatrists and psychologists utilize the latest scientific methods in dealing with each prisoner. Prisoners are given the Wechsler-Bellevue intelligence test and personality-analysis scale, and extensive use is made of the Murray Thematic Apperception Test, the Harrower, and the Rorschach. Predictions are made as regards the prisoner's apparent potentialities as a soldier and his adjustment, attitude, and conduct as a prisoner through observation of the Office of the Supervisor of Prisoners and other personnel and agencies of the institution.

Determinations are made of the physical history and health status of the inmates through interview and examination by medical and dental officers. Men are sometimes found to be suffering from health ailments

when they are received. The trouble is promptly diagnosed and treatment started immediately. When examination discloses new inmates have bad teeth the dentists get them in order as soon as possible and take care of them meticulously thereafter.

Studies are made of their religious backgrounds and of the influence of religion in their lives through interview and additional investigation by chaplains. Every effort is made to afford inmates ample opportunity for spiritual enlightenments and experience. Chaplains, trained to give wise and unprejudiced counsel to members of all faiths, are on duty twenty-four hours each day.

Results of all interviews, studies, and investigations are *written*, and write-ups by the various authorities are consolidated in what is called a Classification Summary. This Summary is used to assist the Classification Board, which is comprised of five officers appointed by the Commandant—one member is usually a psychologist or psychiatrist, and one is an experienced officer who has had extensive combat duty with troops, also a chaplain is usually present—to determine the desirability of *restoration*, matters pertaining to *clemency*, matters pertaining to *parole* and the prisoner's custody. The Board makes recommendations concerning these matters, and these recommendations, approved by the Commandant, go to the Department of the Army for final disposition. The Summary is also used to aid prison authorities to assign the individual to suitable work and schooling and to set up a program of counseling and guidance for him. In cases necessitating extensive treat-

ment, psychotherapeutic aid and or religiotherapeutic assistance are provided for.

How the prisoner lives his institutional life. He works and studies.

(a) Academic training: He may attend any of the following schools: Literacy School, Upper-Grade School, Business School and Cooks' and Bakers' School. But a prevailing conviction among disciplinary barracks authorities is that **MEN LEARN BY DOING**; so in the extensive Vocation Shops, inmates may learn, among other things, printing, auto mechanics, electrical work, radio repair, typewriter repair, body and fender repair, clerking, shop maintenance, welding, machine shop work, sheet metal work, furniture refinishing, carpentering, upholstering, shoe repairing, tailoring, painting and commercial art. (b) Working: In addition to the activities outlined above, he may serve as "overhead" personnel, or he may work in the shops doing jobs of vital importance to the economical maintenance of a National Defense organization. Examples; bed and truck repair. He plays: motion picture shows, athletic shows and the athletics program. He uses his spare time constructively by studying United States Armed Forces Institute texts and course materials, reading carefully selected library books, attending religious meetings and corresponding with relatives and other loved ones. He is kept informed. He is given the benefit of weekly news reviews and Troop Information Program discussions. *He is guided in adjusting himself to prison life and remolding his patterns of behavior so that he may become a good soldier*

and citizen of his country.

Having paid his debt to society and having benefited, to a greater or lesser degree, as a result of the attempts of the disciplinary barracks to prepare him for a better life, he is returned either to the Army or to civilian life:

(a) Restoration: He goes back for training and proper assignment *with the golden opportunity of earning an honorable discharge.*

(b) Parole: This has the advantage of providing the man with an opportunity to adjust himself to civilian status while under the compulsion and restraining influence of supervision. The transition from institutional life to civilian life—where he will be his own boss, have to exercise self-discipline, and make his own decisions—is often facilitated by parole.

(c) Expiration of sentence: All men leaving are given pre-release indoctrination. During their incarceration they have a tendency to idealize the "outside" and to look toward the future with rose-colored glasses. This indoctrination fortifies them against the rebuffs of cold reality.

I must emphasize the fact that the basic purpose of the disciplinary barracks is not custody alone; it is the reformation and rehabilitation of members of our society. Toward that end, with sympathetic understanding and a conscientious desire to help our fellows, those who have been less fortunate than we have been, we incessantly strive, doing the very best we can.

We cannot salvage every offender. Among our charges are psychopaths of the worst sort, asocial personali-

ties, men whose criminal patterns make reformation impossible. Would that society could formulate some policy to remove them definitely from our midst! Yet these are few and far between. Most of our inmates are basically good. They are the victims of circumstances — broken homes, parents whose capacity for being fathers and mothers was restricted to biological vigor, limited education, only negligible contact with the enriching and ennobling things of life, vicious companions. These men can be helped. We know that patient effort, kindness, understanding, and wisdom will make them better men, and that's what we want to do.

Never do we forget for one moment the old story about that distinguished British statesman, Oliver Cromwell. Once, as he was taking his morning stroll through the streets of London, he came across a drunken beggar lying sprawled in a filthy gutter. What a contrast! Cromwell, the ranking citizen of His Majesty's realm. A lowly drunkard wallowing in his own vomit! Cromwell stopped and gazed. His companion and aide said the first word: "A sad sight, sir, indeed!" But Cromwell gave us an unforgettable thought. He turned to the younger man and exclaimed in all his dignity: "My good man, there but for the Grace of God lies Oliver Cromwell!"

Your professional successes, important cases, new appointments, political successes, office removals, and new partnerships are all matters of interest to the other members of the Association who want to know "What The Members Are Doing." Use the Journal to make your announcements and disseminate news concerning yourself. Send to the Editor any such information that you wish to have published.

The Journal is your magazine. If you have any suggestions for its improvement or for future articles, please bring them to the attention of the Editor. We invite members of the Association to make contributions of articles for publication in the Journal. Publishability of any article submitted will be determined by the Editor with the advice of a committee of the Board of Directors composed of Lt. Col. Reginald Field, Col. Joseph A. Avery, Col. John Ritchie, III, Col. William J. Hughes, Jr., and Maj. Edward F. Gallagher.

Organization of the Office of The Judge Advocate General of the Army for Appellate Review

By Lt. Col. Waldemar A. Solf, JAGC

The appellate procedures which have become necessary for the performance of appellate review in the Office of the Judge Advocate General of the Army under the Uniform Code of Military Justice have necessitated a substantial reorganization of the office effective 31 May 1951.

Under Article of War 50 the appellate agencies in the Office of the Judge Advocate General operated generally without the benefit of adversary proceedings although on occasions civilian counsel was retained to represent an accused before a Board of Review or before the Judicial Council. Under Article 70 of the Uniform Code, however, the appearance of counsel for the accused and for the Government will probably become the rule rather than the exception.

Heretofore the flow of records of trial through the appellate agencies was more or less automatic. Whether there was to be a review by the Judicial Council after action by the Board of Review was either automatic or subject to the order of The Judge Advocate General. Under the Code, on the other hand, whether there are to be further proceedings after the review by the Board of Review will depend largely upon the election of the accused, who will have 30 days after receipt of notice of the decision of the Board of Review to forward a petition for a grant of review to the Court of Military Appeals.

These changes in the military appellate review have occasioned a

change of pace and have required a reorganization of the Office of The Judge Advocate General for the performance of the Appellate Review mission. That office is now taking the shape of a busy appellate court which has attached to it offices similar to a Solicitor General's office and a Public Defender's office.

The boards of review, as heretofore, consist of three members. However, in view of the anticipated large number of formal hearings and the expected back log of cases awaiting final decision, at least three assistants have been appointed to each board.

The judicial coordination of the boards of review becomes a function of the Assistant Judge Advocate General for Military Justice, Brigadier General James L. Harbaugh, Jr. He is the principal advisor to The Judge Advocate General with respect to action which should be taken on records of trial reviewed by boards of review to insure uniformity of interpretation of law and uniformity of sentence standards.

The administrative coordination of appellate review and other military justice matters is a function of the Special Assistant, Military Justice, Colonel William P. Connally, Jr. He will continue to supervise the Military Justice and Military Affairs divisions as he did prior to 31 May 1951. In addition, he is charged with the supervision of the Government Appellate Division headed by Colonel William J. Flynn, Jr., and the Defense Appellate Division headed by Colonel Marvin Ludington. The Spec-

ial Assistant also supervises the Control Office which functions very much like the office of the clerk of a very busy appellate court. The Control Office is the clearing house and information center for all steps in the flow of records subject to appellate review. Records of trial, notices, briefs, assignments of errors and other papers are received in the Control Office which maintains a central docket and file for records pending completion of appellate review.

The New Trial Division which processes applications for new trials under Section 12 of the Act of 5 May 1950 and those filed under Article 73 of the Code is headed by Lt. Col. James K. Gaynor. This division operates under the general supervision of Major General Franklin P. Shaw, The Assistant Judge Advocate General.

The Courts-Martial Records Section, headed by Mrs. Hattie Wright, and the Research Branch, headed by Mr. Samuel J. Levy, remain under the general supervision of the Executive, Colonel Reginald C. Miller.

Flow of Records

In order to get a bird's eye view of the operation of appellate review in The Judge Advocate General's Office, it is desirable to trace the progress of a typical record.

Let us assume that the record of trial by general court-martial in the case of Private Mortimer Jones has been received. Jones was found guilty of striking a warrant officer while in the execution of his office in violation of UCMJ Article 91. He was sentenced to dishonorable discharge, total forfeitures and confinement at hard labor for five years. After the trial the defense counsel advised

Jones that, upon request, he is entitled to be represented before the board of review by an appellate defense counsel in the Office of The Judge Advocate General or by civilian counsel if provided by him. Jones elected to request representation by appellate defense counsel. His request and a short assignment of errors were forwarded to the convening authority and attached to the original records of trial. The record (in duplicate) was then forwarded to The Judge Advocate General.

The file pertaining to Jones was first received in the Court-Martial Records Section which promptly transmitted it to the Control Office.

There the record was docketed and assigned to a board of review. Since Jones requested representation, the copies were sent to the Defense and Government Appellate Divisions. Within five days an appellate defense counsel has entered his appearance in the case and has filed an assignment of errors in lieu of a brief. Meanwhile, the Control Office, after coordinating with the board of review, has set the case down for a hearing at a time mutually convenient to the board of review and both counsel in the case. Shortly thereafter the appellate Government counsel has filed his reply to the assignment of errors.

By the time the case is reached for a hearing, the members of the board have studied the record and are prepared to address searching questions to counsel. After the hearing, the members of the board have met, and, after an informal discussion, decided to affirm the findings of guilty and the sentence without modification.

The record and the decision of the

board were transmitted to the Assistant Judge Advocate General for Military Justice who found that the record presented no questions of law which would warrant The Judge Advocate General in ordering the case forwarded to the Court of Military Appeals but, after considering representation by the appellate defense counsel, he found that in the absence of aggravating circumstances the sentence to confinement for five years was in excess of normal sentence standards for the offense found. Consequently he recommended that so much of the sentence as is in excess of dishonorable discharge, total forfeiture, and confinement at hard labor for two years be remitted. The Judge Advocate General followed the recommendation and mitigated the sentence under the provisions of AR 600-345.

The Control Office then transmitted copies of the decision of the board of review and the action of The Judge Advocate General to the Commanding General, Second Army, to whose command Jones had been transferred pending completion of appellate review. A copy of the decision and the mitigating action was served upon Jones. The copy bore an indorsement advising Jones that he has 30 days within which to petition the Court of Military Appeals for a grant of review with respect to any question of law. Jones, after corresponding with the appellate defense counsel, decided to file a petition. This petition was submitted to the Commanding General, Second Army, within the 30 day period. Accordingly, the latter did not publish an order of execution at the expiration of the appeals period. Instead, he forwarded

the petition to The Judge Advocate General's Office.

The Control Office, after notifying both counsel and supplying them with copies of the petition, forwarded the papers to the Court of Military Appeals. Within 30 days after receiving the petition the Court denied the petition and so notified The Judge Advocate General.

The Control Office, in turn, notified the Commanding General, Second Army, that the petition had been denied and advised him to order the execution of the sentence as modified by The Judge Advocate General.

Pending completion of appellate review, Jones' military and civil record was examined to determine an appropriate place of confinement. The report, indicating that Jones was a proper subject for rehabilitation, was received by the Commanding General, Second Army, before the appellate review was completed. Accordingly, he designated a rehabilitation training center as the place of confinement in his order of execution.

Copies of the order of execution were then forwarded to The Judge Advocate General and checked in the Military Justice Division. After it was determined that the order was correct in form and that the place of confinement was properly designated in accordance with all pertinent regulations, the record left the temporary file and found its niche in the permanent files of the Court-Martial Records Section.

CONCLUSION

From the foregoing outline, it can readily be perceived that the process of appellate review under the Uniform Code of Military Justice will

take considerably longer than under the Articles of War. Every effort has been made to keep the delays incident to appellate review to a minimum, but if an accused exhausts his appellate remedy, as did our hypothetical Private Jones, the duration

of appellate review will be approximately four months. In order to apply this time profitably, the normal screening processes (which heretofore were conducted after appellate review was completed) will usually be conducted pending appellate review.

Uniform Rules of Procedure for Proceedings in and before Boards of Review

Effective 31 May 1951

AUTHORITY

Pursuant to the Uniform Code of Military Justice, Article 66(f), Act of 5 May 1950 (64 Stat. 128), the following rules of procedure for proceedings in and before boards of review are jointly promulgated by the Judge Advocates General of the armed forces, effective 31 May 1951.

DEFINITIONS

So far as the terms defined in Article I of the Code are used in these rules they are used in the sense of their respective definitions therein unless the context indicates otherwise.

As used in these rules—

“Appellate counsel” shall mean any counsel representing any party before a board of review.

“Appellate defense counsel” shall mean any officer appointed by the Judge Advocate General to represent an accused before a board of review pursuant to Article 70.

“Appellate Government counsel” shall mean any officer appointed by the Judge Advocate General to represent the Government before a board of review pursuant to Article 70.

“Civilian counsel” shall mean civilian counsel provided by the accused to represent him before a board of review.

“Appellate counsel for the accused” shall be construed to include

appellate defense counsel and civilian counsel.

“Defense counsel” shall mean any person who represented an accused at the trial by court-martial or who served as his counsel in the field.

RULES

I. Quorum

A majority of the members of a board of review will constitute a quorum for the purpose of hearing and determining any matter referred to the board. The determination of any matter referred to a board of review will be according to the opinion of a majority of its members. In the absence of a quorum the senior member present may make all necessary orders touching any proceedings pending in the board preparatory to hearing or decision thereof.

II. Place for Filing Papers

When the filing of a notice of appearance, brief, or other paper in the Office of a Judge Advocate General is required by these rules, such papers will be filed in the Office of the Judge Advocate General of the appropriate armed force. If transmitted by mail or other means, they are not filed until received in such office.

III. Signing of Papers

All formal papers must be signed and must show, typewritten or

printed, the name and address of the person signing same, together with his military rank, if any, and the capacity in which he signs the paper. Such signature constitutes a certificate that the statements made therein are true and correct to the best of the knowledge, information, and belief of the person signing the paper, and that the paper is filed in good faith and not for the purposes of unnecessary delay. Papers will be filed only by the duly authorized counsel for the parties in interest and proof of such authorization may be required.

IV. Computation of Time

Times referred to herein are calendar days. If the last day falls on a Saturday, Sunday or holiday compliance may be made on the next working day.

V. Counsel

A. *Qualifications*—In any proceedings before a board of review the accused may be represented by civilian counsel provided by him or by assigned appellate defense counsel. Civilian counsel must be a member in good standing of the bar of a Federal court or of a court of record of any State of the United States, and may be required to file a certificate setting forth such qualifications. Appellate defense and Government counsel will be qualified in accordance with Article 70(a) and 27(b)(1) of the Code.

B. *Conduct of counsel*—The conduct of counsel appearing before a board of review will be in accordance with the rules of conduct prescribed by paragraph 42b, Manual for Courts-Martial, United States, 1951.

C. *Request for appellate defense counsel*.—A request for representa-

tion by appellate defense counsel will be forwarded to the convening authority for attachment to the record or dispatched to the Office of the Judge Advocate General within ten days from the date of sentence. In cases referred to a board under Article 69, the accused will have two days from the time he receives notice of such reference to forward a request for appellate defense counsel to the Office of the Judge Advocate General unless he has already forwarded such request. Any request for appellate defense counsel should be accompanied by a statement as to the errors or other matters urged as grounds for relief. Such statement need not be in technical form and the assistance of counsel in the field will be available for its preparation. In the event defense counsel files a brief as provided in Article 38(c) such brief may be submitted in lieu of this statement.

D. *Civilian counsel provided by accused*.—Notice that an accused has retained or taken action to retain civilian defense counsel to represent him before a board of review will be forwarded to the convening authority for attachment to the record or dispatched to the Judge Advocate General within ten days from the date of sentence. In cases referred to a board of review under Article 69, the accused will forward such notice within two days after receipt of notice by him of such referral unless he has already forwarded such notice. The notice of representation by civilian counsel will be signed by the accused or his representative and will state the name and address of such civilian counsel. When the accused has forwarded a timely notice of in-

tention to retain civilian counsel, a notice of retainer stating the name and address of such counsel must be received in the Office of the Judge Advocate General within ten days of receipt of the notice of intention. Such civilian counsel will thereafter be notified of the receipt of the record of trial in the Office of the Judge Advocate General, the number of the case, the board to which the case has been referred, and the arrangements made, or to be made, for a hearing.

If the accused has forwarded a timely notice of intention to retain civilian counsel, appellate defense counsel shall be assigned to represent the interests of the accused pending appearance of civilian counsel.

E. *Failure to request or give notice of appellate counsel.*—Failure of an accused to request appellate defense counsel or to give notice of retainer of civilian counsel or of intention to retain civilian counsel within the times prescribed may be regarded as a waiver of such right and a board may take final action in the case. Upon application made to the Judge Advocate General at any time before the board of review has taken final action in a case, and for good cause shown, the times prescribed herein may be extended.

F. *Mandatory assignment of appellate defense counsel.*—In all cases in which the United States is represented by counsel before a board of review, the accused will be assigned appellate defense counsel if not already represented by counsel.

G. *Direct communication.*—Civilian counsel may communicate directly with appellate defense or Government counsel. Appellate defense counsel may render such appropriate assist-

ance in connection with the appellate review of the case as may be requested by civilian counsel.

H. *Notice of appearance of counsel.*—Appellate defense and Government counsel in a case before a board of review will file a written notice of appearance in the Office of the Judge Advocate General within five days of assignment to the case. Civilian counsel will file such notice within ten days from the date of receipt of the notice of retainer. Unless separate notice of appearance is filed, an assignment of errors, brief, or other formal paper will constitute a notice of appearance.

VI. Records of Trial

Civilian counsel who do not have a copy of the record of trial may make arrangements with appellate defense counsel to examine a copy of the record of trial in the Office of the Judge Advocate General and to make a copy of the whole or any part thereof without expense to the Government.

VII. Assignment of Errors

Within ten days after notice of receipt of the record in the Office of the Judge Advocate General appellate counsel for the accused shall file an assignment of errors setting forth separately and particularly each error asserted and intended to be urged (Appendix 1). An original and five clear copies prepared in accordance with the provisions of Rule VIII, A, will be submitted. It will contain the information prescribed in Rule VIII, D, 1. A reply to this assignment may be filed within ten days. For good cause shown the Judge Advocate General may extend these times.

VIII. Briefs

A. *General provisions.*—The assignment of errors prescribed in Rule VII may be included in, or filed in lieu of, a brief for the accused. An original and five clear copies of all briefs will be submitted. Briefs will be typewritten, double-spaced on 8" x 12½" (legal cap) white paper, securely fastened at the top. All references to matters contained in the record will show record page numbers and any exhibit designations.

B. *Number of briefs.*—Appellate counsel will be limited to the filing of one brief for each side unless the board otherwise permits or directs.

C. *Time for filing.*—Any brief for an accused will be filed within ten days after his appellate counsel has been notified of the receipt of the record in the Office of the Judge Advocate General. If the Judge Advocate General has directed appellate Government counsel to represent the United States, such counsel may file a brief on behalf of the Government within ten days after any brief or an assignment of errors has been filed on behalf of an accused. If no brief is filed on behalf of an accused a brief on behalf of the Government may be filed within ten days after expiration of the time allowed for the filing of a brief on behalf of the accused. For good cause shown, the Judge Advocate General may extend the times prescribed herein, giving due notice of such extension to the opposing party.

D. *General contents.*—

1. Each brief will indicate on the cover page (Appendix 2):

a. The designation of the board of review to which the case has

been referred,

b. The number of the case, if known, and the caption with designation of parties,

c. Title of the document,

d. Names and addresses of all counsel submitting the document.

2. An index containing:

a. Divisions of the brief, including a summary of the argument,

b. Table of authorities cited with references to the page of the brief where cited.

If the brief is less than ten pages long this index may be omitted.

E. *Contents (Accused) (Appendix 3).*—The brief for an accused will contain the following arranged in the order indicated—

1. A summary of the proceedings showing the findings and sentence as approved and the action of the convening authority thereon;

2. A concise statement of the facts of the case containing all that is material to the consideration of the questions presented with appropriate page references to the record;

3. The substance of the errors or points intended to be urged, prepared in accordance with Rule VII;

4. The argument exhibiting clearly the points of fact and law being presented, citing the authorities and statutes relied upon, and quoting the relevant parts of such authorities and statutes as are deemed to have an important bearing;

5. A conclusion stating concisely why the case should be decided as urged.

F. *Contents (Government)*—A brief on behalf of the Government will be of like character as that prescribed for the accused except that the matters prescribed in Rule VIII,

E 1, 2, and 3 need not be given unless deemed necessary in correcting any inaccuracy or omission in the brief of the accused.

Appropriate proof of service of a copy of the brief will appear on the cover sheet when accused is represented by civilian counsel.

IX. Hearings

A. *Oral arguments*.—Cases where the parties are not represented by counsel will be considered as submitted without oral argument. All other cases will be set for argument unless, upon request of counsel, a board permits a case to be submitted without argument. The accused does not have a right to be present at the hearing before the board of review.

B. *Notice of setting of arguments*.—A board of review will give appellate counsel at least ten days' notice of the time and place of oral arguments, unless waived.

C. *Time limits*.—The length of oral arguments will be within the discretion of a board of review and ordinarily will not exceed thirty minutes for each side.

D. *Number of counsel; opening and closing*.—A board in its discretion may limit the number of counsel making an oral argument. The defense will have the right to make opening and closing arguments.

E. *Failure to appear*.—Failure of appellate counsel to appear at the time and place set for oral argument may be regarded as a waiver thereof and the board may proceed to act on the case as submitted without argument, or, in its discretion, may continue the case for argument at a later date, giving due notice thereof.

F. *Matters outside record*.—Matters outside the record of trial will

not be presented to or argued before a board of review except with respect to:

1. A petition for a new trial referred to a board under Article 73.
 2. A question of jurisdiction,
 3. Matters affecting the sanity of an accused tending to show that further inquiry as to his mental condition is warranted in the interest of justice,
 4. Matters as to which judicial notice may be taken in military law.
- When requested by the Judge Advocate General, a board of review may hear and report to him on, any matter outside the record in mitigation of the sentence, or otherwise in the interest of justice.

X. Decisions of a Board of Review

A. *Notice of decisions*.—Notice of the decision of a board of review will be accomplished as prescribed in paragraph 100, MCM, 1951. In any case where a board affirms a sentence without opinion, notice upon the accused and appellate counsel for the accused, in accordance with paragraph 100c(1)(a), MCM, 1951, may be accomplished by any equally expeditious means of communication.

B. *Copies of decisions*.—A copy of the decision of a board of review will be furnished appellate counsel for the accused.

XI. Continuances and Interlocutory Matters

Except as otherwise provided in these rules a board, in its discretion, may extend any time limits prescribed, may grant continuances for such time and as often as may appear to be just, and may dispose of any interlocutory or other matters, not specifically covered by these rules, in such manner as may appear to be

required for a full, fair, and expeditious consideration of the case.

(Signed)

G. L. RUSSELL
Rear Admiral, U. S. Navy
Judge Advocate General of the
Navy

(Signed)

J. L. HARBAUGH, JR.
Brigadier General, USA
Acting Judge Advocate General of
the Army

(Signed)

REGINALD C. HARMON

Major General, USAF
The Judge Advocate General, United States Air Force

(Signed)

THOMAS J. LYNCH

General Counsel of the Treasury
Department

Appendix I

Form for Assignment of Errors (Rule VII)

IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE*

Before Board of Review No. _____

UNITED STATES,)

v.)

Private JOHN RICHARD ROE,)

U.S. Air Force, AF000000000,)

3000th Training Squadron,)

4000th Technical Training Group,)

Case No. _____

Tried at _____, on

_____ 19____, before a

G. C. M. appointed by

CG _____

Air Force

ASSIGNMENT OF ERRORS

Summary of Proceedings

Upon trial by general court-martial the accused pleaded not guilty to, and was found guilty of, absence without leave from 2 June 1951 until 1 July 1951 in violation of U.C.M.J. Art. 86, and of the larceny of a watch of a value of \$75.00 the property of Private Schmidt, in violation of U.C.M.J. Art. 121. On _____ 19____ he was sentenced to dishonorable discharge, forfeiture of all pay and allowances, and confinement at hard labor for 4 years. The convening authority approved the sentence, forwarded the record of trial to the Judge Advocate General of the _____ and directed that pending completion of appellate review the accused be transferred to the command of _____, where he is presently confined in the base stockade, _____ Air Base, _____.

ERRORS

The following errors are assigned:

1. The law officer erred in admitting evidence as Prosecution's Exhibit No. 1, an alleged extract copy of the morning report of the 3000th Training Squadron dated 2 June 1951 (R. 17).

The exhibit shows that the alleged morning report was signed and indicates that the entry as to the accused's alleged unauthorized absence was made, by Sergeant William Q. Johns, 3000th Training Squadron. Under pertinent regulations in effect at the time the alleged entry was made, a non-commissioned officer was not the proper person to sign the morning report and had no official duty to record the fact of unauthorized absence.

2. The court erred in its findings of guilty of absence without leave (R. 29), as there was no competent evidence of the alleged unauthorized absence.

3. _____

4. _____

s/ _____

John J. Doe

Major, USAF

Office of the Judge Advocate General, U. S. Air Force

Appellate Defense Counsel

*Use Judge Advocate General of the Army, Judge Advocate General of the Navy, or General Counsel of the Treasury Department, respectively, for Army, Navy, or Coast Guard accused, and modify title accordingly.

Appendix 2

Form for Cover Page of Brief (Rule VIII)

IN THE OFFICE OF THE JUDGE ADVOCATE GENERAL OF THE AIR FORCE*

Before Board of Review No. _____

U N I T E D S T A T E S ,)
 v.)
 Private JOHN RICHARD ROE,))
 U.S. Air Force, AF000000000,)
 3000th Training Squadron,)
 4000th Technical Training Group,)

Case No. _____
 Tried at _____, on
 19_____, before a
 G. C. M. appointed by
 C G _____
 Air Force

BRIEF ON BEHALF OF ACCUSED

(BRIEF ON BEHALF OF THE GOVERNMENT)

(REPLY BRIEF ON BEHALF OF ACCUSED)

ROGER Q. SMITH
 Attorney-at-Law
 Crow Building
 Muscatine, Iowa
 Civilian Counsel for Accused

WILLIAM R. QUEEN
 Major, USAF
 Office of the Judge Advocate Gen-
 eral, U. S. Air Force
 Appellate Defense Counsel

*Use Judge Advocate General of the Army, Judge Advocate General of the Navy, or General Counsel of the Treasury Department, respectively, for Army, Navy, or Coast Guard accused, and modify title accordingly.

Appendix 3

Form for Contents of Brief on Behalf of Accused (Rule VIII)

(For Form of Cover Page, see Appendix 2)

INDEX OF BRIEF

(Omit if brief is less than 10 pages long)

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UNITED STATES,)
 v.)
 Private JOHN RICHARD ROE,))
 U.S. Air Force, AF000000000,)
 3000th Training Squadron,)
 4000th Technical Training Group,)

Case No. _____
 Tried at _____, on
 _____ 19____, before a
 G. C. M. appointed by
 CG _____
 Air Force

BRIEF ON BEHALF OF ACCUSED

Summary of the Proceeding

(See first paragraph of Appendix 1)

* * * *

Statement of Facts

Briefly summarized the record of trial shows _____ (State all the facts material to the consideration of errors assigned).

Assignment of Errors

The following errors are assigned:

(See Appendix 1)

* * * *

Argument

(Discuss the points presented separately and in detail under the headings listed in the index, citing and quoting applicable authority deemed to have an important bearing.)

* * * *

Conclusion

For the reasons stated, the findings of guilty and the sentence should be set aside and the charges should be dismissed. II

s/ _____
 ROGER Q. SMITH
 Attorney-at-Law
 Crow Building
 Muscatine, Iowa
 Civilian Counsel for Accused

s/ _____
 WILLIAM R. QUEEN
 Major, USAF
 Office of the Judge Advocate General,
 U. S. Air Force
 Appellate Defense Counsel

COURT OF MILITARY APPEALS

(Pictures on Pages 31, 32, 33)

The basic written source of our military law is the Constitution of the United States. While historically our military law is hundreds of years older than the Constitution, today there is no military law or other law of the United States that is not contained in or derived from the Constitution. One of the reasons set forth in the preamble for the adoption of the Constitution is to "provide for the common defence." By Article I, Section 8, Congress is empowered: "To define and punish * * * Offenses against the Law of Nations;" "To declare War, * * * and make Rules concerning Captures on Land and Water;" "To raise and support Armies;" "To provide and maintain a Navy;" and "To make Rules for the Government and Regulation of the land and naval Forces."

Pursuant to its constitutional powers Congress enacted the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard, which were, respectively, applicable to the separate branches of the armed forces at all times and in all places. On 5 May 1950, however, Congress enacted

NOTE: The editor acknowledges with thanks the assistance of Col. Fred Wade, USAFR, Major Lewis Ward, USAFR of the District of Columbia Bar, and Major John J. Powers, USAFR of the Alabama Bar in the compilation of material for the above article. Col. Wade is on extended active duty and Majors Ward and Powers are civilian attorneys, all assigned to the Office of the Judge Advocate General of the Air Force.

Public Law 506 (64 Stat. 108; 50 U.S.C. 551-736), which contains the Uniform Code of Military Justice for the government of the armed forces of the United States, and, among other things, provides for *civilian* Court of Military Appeals.

Historically military law was regarded as "summary" in nature. However, this did not mean that the trial procedure was unfair, hasty, or unsolicitous of the rights of the accused, but rather that the institution of the proceedings was relatively more swift than in civilian procedure and that punishment swiftly followed a sentence.

The original articles with minor modifications worked out well in the Army, summary though they were, until World War I, when public reaction to the confirmation and execution of several sentences on the day following the sentence, caused the Army to promulgate General Order No. 7, 1918, which required review by a board of review in the office of the Judge Advocate General or in a branch office before any serious sentence by a court-martial could be carried into execution. The review in that case had been conducted by the Department judge advocate who wrote his review as the trial progressed from the stenographic transcription of the previous day's proceedings.

Thereafter, General Order No. 7 served as a pattern for appellate review in the Army and its essential provisions were incorporated into statutory law in 1920, as Article of War 50½. The 1948 revision of the Articles of War, applicable to both the Army and the Air Force, modified

this procedure by empowering the boards of review to weigh evidence, judge the credibility of witnesses, and determine controverted questions of fact (AW 50). A *military* judicial council for the further review of certain cases, with power to consider the propriety as well as the legality of sentences was also created. However, the Navy's appellate review system, like that prescribed by Army General Order No. 7, was not statutory.

At the time the 1948 Articles of War were enacted, the Congress had under consideration legislation that later was enacted as the Uniform Code of Military Justice, unifying, consolidating, revising and codifying the Articles of War, the Articles for the Government of the Navy, and the disciplinary laws of the Coast Guard.

Under the Uniform Code of Military Justice, effective 31 May 1951, the statutory prerequisites to the execution of court-martial sentences as approved by the convening authority are these:

Sentences extending to death or involving a general or flag officer may not be executed until they are:

1. Affirmed by a board of review (Art. 66b,c),
2. Affirmed by the Court of Military Appeals (Art. 67b(1)), and
3. Approved by the President (Art. 71a).

Sentences extending to dismissal may not be executed until they are:

1. Affirmed by a board of review (Art. 66b),
2. Affirmed by the Court of Military Appeals if the Judge Advocate General has forwarded the case to the Court for consideration or if the

Court has granted a petition for review submitted by the accused (Art. 67b(2) or (3)), and

3. Approved by the Secretary of the Department (Art. 71b).

Sentences to dishonorable or bad conduct discharge, or confinement for one year or more, or any sentence which includes an unsuspended punitive discharge may not be executed until they are:

1. Affirmed by the board of review (Arts. 71c, 72b), and
2. Affirmed by the Court of Military Appeals if the Judge Advocate General has forwarded the case to the Court for consideration or if the Court has granted a petition for review pursuant to Article 67b(2) or (3) (Art. 71c).

All other sentences by court-martial, unless suspended, may be ordered into execution by the convening authority when he approves a sentence (Art. 71d). These latter sentences, however, are reviewed by higher authorities, and general court-martial sentences which do not involve general or flag officers, extend to death, dismissal, discharge, or confinement for a year or more, are reviewed in the office of the Judge Advocate General of the service concerned, subject to being referred to a board of review which may affirm the sentence in whole or in part or set it aside like any other sentence reviewed by it under Article 66.

Article 67 of the Uniform Code of Military Justice provides for the establishment of a Court of Military Appeals which shall review the record in the following cases:

1. All cases in which the sentence, as affirmed by a board of review, affects a general or flag officer or ex-

tends to death;

2. All cases reviewed by a board of review which the Judge Advocate General orders forwarded to the Court of Military Appeals for review; and

3. All cases reviewed by a board of review in which, upon petition of the accused and on good cause shown, the Court of Military Appeals has granted a review.

Article 67 also provides that the Court of Military Appeals shall consist of three judges appointed from civil life by the President, by and with the advice and consent of the Senate. The President of the United States has nominated and the Senate confirmed the following prominent attorneys:

Paul W. Brosman, of Louisiana, for the term expiring May 1, 1956;

George W. Latimer, of Utah, for the term expiring May 1, 1961;

Robert E. Quinn, of Rhode Island, for the term expiring May 1, 1966. The President designated Judge Quinn as Chief Judge of the Court.

It is provided by Article 67 that the terms of all successors shall expire 15 years after the expiration of the terms for which their predecessors were appointed.

The men appointed by the President are exceedingly well qualified by virtue of their legal and military background. Judge George W. Latimer was born in Draper, Utah, and attended the University of Utah from which he received his LLB degree in 1924. He practiced law in Salt Lake City, Utah, from 1925 until 1940, at which time, being an officer in the Utah National Guard, he went on active duty. He returned to general practice in the State of Utah

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in 1945. He remained in practice until he was elected to the Supreme Court of the State of Utah in 1946 from which position he was nominated by the President to be a Judge of the Court of Military Appeals.

Judge Latimer has had approximately 26 years of military service with the Utah National Guard and the Army of the United States. While attending the University of Utah he enrolled in the Reserve Officers Corps and graduated as a 2nd Lieutenant of field artillery. He accepted a commission in the National Guard and has served that organization in all ranks from 2nd Lieutenant to Colonel. In 1926 he graduated from the Battery Officers Course, Fort Sill, Oklahoma. In 1940 he was selected to attend the first special course, Command and General Staff School, Fort Leavenworth, Kansas, and upon his completion he was detailed there as an instructor. He was inducted into the federal service in February, 1941 as G-1 of the 40th Infantry Division.

He subsequently was promoted to full colonel, becoming Chief of Staff of that Division and served in that capacity while the Division was in Hawaii, Guadalcanal, New Britain, Luzon, Negros and Panay, P. I. Since being relieved from active duty in 1945, Colonel Latimer has had tours of duty with the Army Field Forces, Fort Monroe, Virginia, where he supervised the National Guard officers in the preparation of National Guard training programs and staff training programs.

Judge Robert Emmett Quinn was born in Warwick, Rhode Island and received his AB degree from Brown University in 1915, and his LLB degree from Harvard in 1918. Upon

graduation Judge Quinn practiced law in Rhode Island and served as a State Senator 1923-1925 and 1929-1933. He is a former Lieutenant Governor and Governor of Rhode Island and since 1941 has been an Associate Justice of the Superior Court, Providence, State of Rhode Island. During World War I he served in the United States diplomatic intelligence service in England and France. He was a Captain in the U.S. Navy during World War II, having volunteered for duty in 1941. While on duty with the U.S. Navy he was Legal Officer of the First Naval District and assisted in the revision of the Naval Court Martial System. Judge Quinn was cited by both the Army and the Navy for distinguished service. Judge Quinn was a consultant with the Honorable Arthur Ballantyne and Professor Dowling of Columbia on the First Ballantyne Report. During 1947-1950 he was the Commanding Officer, Rhode Island Naval Reserve Legal Unit. Judge Quinn is a member of the American and Rhode Island Bar Associations.

Paul William Brosman was born in Albion, Illinois, and received his AB from Indiana University in 1926, LLB from the University of Illinois in 1924, and JSD from Yale University in 1929. He is a member of the bar in Illinois and Louisiana. During the period 1924 to 1928 he taught Law at Indiana University and Mercer University. From 1928 to 1929 he was Sterling Fellow in Law at Yale University. During the period from 1929 to 1938 he was professor of Law at Tulane University, becoming Dean of the University in 1938, specializing in the

criminal law, evidence and procedure field.

Judge Brosman saw service in both World Wars I and II. He served with the United States Army in World War I. On June 22, 1949, he was commissioned a Major in the AUS and assigned to AAF. He was Assistant Staff Judge Advocate, Headquarters, Third Air Force, Tampa, Florida, later becoming Chief of the Military Justice Division, Office of the Judge Advocate, Headquarters, Army Air Force from 1944 until relieved from active duty on October 1, 1945. He is a graduate of the (12th Officer's Class) Judge Advocate General's School, University of Michigan. At the time of his appointment to the Court of Military Appeals, he was a Colonel in the United States Air Force Reserve.

Judge Brosman was awarded the Legion of Merit for his services in World War II. He is a member of the American, Louisiana, New Orleans and Inter-American Bar Associations, and has served on many important committees for these Bar Associations. Judge Brosman is the author of numerous articles and book reviews in legal and other periodicals. Judge Brosman is a member of the Judge Advocates Association and a former member of the Board of Directors.

Article 67 of the Uniform Code of Military Justice provides that the Court of Military Appeals shall be located, for administrative purposes, in the Department of Defense. The Judge Advocates Association is informed, however, that the Court will not sit in the Pentagon and that several sites in the District of Columbia are being discussed for the

Court, but none as yet have been selected.

Article 67 provides that the Court of Military Appeals shall have power to prescribe its own rules of proce-

dures and determine the number of judges required to constitute a quorum. The Rules of Practice before the Court of Military Appeals follows in this issue of the Journal.

ANNUAL MEETING — 1951

The Judge Advocates Association will hold its annual dinner, during the week of the American Bar Association convention, on Tuesday, September 18, 1951, in the ballroom of the Park Lane Hotel, 299 Park Avenue, New York, N. Y. Among the honored guests who will be present at the dinner are Maj. Gen. Earnest M. Brannon, The Judge Advocate General of the Army; Rear Adm. George L. Russell, The Judge Advocate General of the Navy; Maj. Gen. Reginald C. Harmon, The Judge Advocate General of the Air Force; Brigadier W. J. Lawson, The Judge Advocate General of the Canadian Forces; Chief Judge Robert E. Quinn, and Judges George W. Latimer and Paul W. Brosman of the Court of Military Appeals. An interesting program has been arranged. Col. Reginald Field will be the toastmaster. The subscription price will be \$9.00 per person and it is suggested that members make early reservations by direct application to Col. Arthur Levitt, Chairman of the Annual Meeting Committee, 369 Lexing-

ton Avenue, New York, N. Y.

It is anticipated that this dinner will be attended by a large number of our members and advance reservations have already been made by many. This annual social event will afford the members an excellent opportunity to see again their many friends with whom they served as military lawyers, as well as affording an opportunity to become familiar with the present plans for the military lawyer.

The annual meeting of the Association will be held at 4:00 p.m., Wednesday, September 19, 1951, also at the Park Lane Hotel. At this meeting, in addition to the report of tellers of the annual election and other important business matters of the Association, there will be a report made by each of the Judge Advocates General on present conditions and the prospects for reserve officers.

Every member of the Association should make a note on his calendar at this time of this important meeting and try to arrange to attend.

Use the Directory of Members when you wish local counsel in other jurisdictions. The use of the Directory in this way helps the Association perform one of its functions to its membership and will help you. You can be sure of getting reputable and capable counsel when you use the Directory of Members.

Please advise the headquarters of the Association of any changes in your address so that the records of the Association may be kept in order and so that you will receive all distributions promptly.

Rules of Practice and Procedure Before The Court of Military Appeals

These rules are prescribed pursuant to authority contained in Article 67 of the Uniform Code of Military Justice, Act of 5 May 1950 (64 Stat. 128), to which Code reference should be made for all Articles cited herein.

Rule 1. Name

The Court adopts "United States of Military Appeals" as the title of the Court.

Rule 2. Seal

The Seal shall contain (details to be furnished later).

Rule 3. Clerk

a. The Clerk of this Court shall reside and keep the office at the seat of the National Government, Washington, D. C.

b. He shall not practice as attorney or counsellor in any court while he continues in office.

c. Before he enters on the execution of his office, he shall take an oath in the form prescribed by 28 U.S.C. 1948 revision, Sec. 951, which reads:

"I, , having been appointed , do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments, and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God."

d. He shall not permit any original record or paper to be taken from the courtroom or from the office without an order from a Judge of this Court.

The office of the Clerk of this Court will be open from 9 a.m. to

5 p.m. every week-day except holidays and Saturdays. On Saturdays, the Court will be open from 9 a.m. to 1 p.m.

Rule 4. Docket: Notice of Docketing

The clerk shall maintain in his office a docket in which shall be entered the receipt of all certificates or petitions for grant of review as provided in Rule 16 hereof.

Upon receipt of either petition of the accused or the certificate of a Judge Advocate General whichever occurs first, the case shall be assigned a docket number. The clerk shall promptly notify the Judge Advocate General of the service concerned and the accused or his appellate counsel of the receipt and docketing of the case, giving its docket number. All papers subsequently filed in the case shall bear this number. All appearances of counsel and other papers filed with the clerk, the receipt of all petitions for new trial referred by a Judge Advocate General pursuant to Article 73 of the Code, and all decisions, orders, and other action by the Court shall be noted chronologically in the docket on the page or pages assigned to the case, showing briefly the date, the nature of each paper filed, and the substance of each decision, order, and other action by the Court.

Rule 5. Attorneys and Counsellors

It shall be requisite to the admission of a person to practice in this Court that he be a member of the bar of a Federal Court or of the highest court of a State.

Rule 6. Assignment of Appellate Counsel

Whenever a record of trial is

forwarded by a Judge Advocate General for review, he shall immediately designate appellate Government counsel, and shall immediately designate appellate defense counsel, unless he has been notified that the accused desires to be represented before the Court by civilian counsel.

Rule 7. Notice of Appearance by Counsel

a. *Military Appellate Counsel* — Military appellate counsel designated in any case shall file an appearance in writing within five days after such designation.

b. *Civilian Appellate Counsel* — Civilian appellate counsel shall file an appearance in writing before participating in the proceedings.

Rule 8. Admission

In order to appear before this court, an application shall be filed with the Clerk of the Court not less than five days prior to the time of admission showing the following information:

- a. The name and residence of the applicant
- b. His office address
- c. The federal or state court to which he has been admitted
- d. The place where he has been practicing

In addition, the applicant shall file a certificate from the presiding judge or clerk of the proper court that the applicant is a member of the bar and that his private and professional character appears to be good or in lieu thereof a certificate by the Judge Advocate General containing substantially the same information.

Upon being admitted, each applicant shall take in court the following oath or affirmation, viz:

I, . . . , do solemnly swear (or affirm) that I will demean myself, as an attorney and counsellor of this court, uprightly, and according to law; and that I will support the Constitution of the United States.

Admissions will be granted upon motion of the Court or upon oral motion by a person admitted to practice before the Court on any day the Court holds a regular session.

Rule 9. Process

All process of this Court shall be in the name of the President of the United States, and shall contain the given names as well as the surnames of the parties.

Rule 10. Jurisdiction

This court will review the record in the following cases:

- a. All cases in which the sentence, as affirmed by a board of review, affects a general or flag officer or extends to death;
- b. All cases reviewed by a board of review which the Judge Advocate General orders forwarded to this Court for review; and
- c. All cases reviewed by a board of review in which, upon petition of the accused and on good cause shown, this Court has granted a review except those reviewed under Article 69.

Rule 11. Scope of Review

This Court will act only with respect to the findings and sentence as approved by the convening or reviewing authority, and as affirmed or as set aside as incorrect in law by a board of review. In those cases which the Judge Advocate General forwards to this Court, action need be taken only with respect to the issues raised by him. In a case reviewed upon petition of the accused, action need be taken only

with respect to issues specified by this Court in the grant of review. This Court may, however, review other matters of law which materially affect the rights of the parties. The points raised in this Court will involve only errors in law.

Rule 12. Quorum

Two of the judges shall constitute a quorum. The concurrence of two judges shall be required for the rendition of a final decision of the allowance or denial of a petition for a grant of review. In the absence of a quorum any judge may make all necessary orders relating to any matter pending before the Court relative to the filing of papers or preparatory to a hearing or decision thereon. If at any time a quorum is not present on any day appointed for holding a hearing, any judge present may adjourn the Court from time to time, or, if no judge is present, the clerk may adjourn court from day to day.

Rule 13. Signing of Papers

All petitions, appearances, briefs and motions shall be legibly typewritten or printed and signed and shall show the name and address of the person signing, together with his military rank, if any, and the capacity in which he signs the paper. Such signature constitutes a certificate that the statements made therein are true and correct to the best of the knowledge, information and belief of the person signing the paper, and that the paper is filed in good faith and not for the purpose of unnecessary delay.

Rule 14. Filing of Papers

All petitions, appearances, briefs and motions shall be filed in the office of the clerk and if transmitted

by mail or other means, they shall not be deemed to have been filed until received in his office, except that for purposes of computation of time allowed an accused to petition for grant of review such petitions shall be deemed to have been filed upon the date postmarked on the envelope containing the petition or upon the date when the petition is deposited in military channels for transmittal.

Rule 15. Computation of Time for Filing Papers

a. *Computation* — In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday.

b. *Enlargement*—When by these rules or by notice given thereunder, or by order of court, an act is required or allowed to be done at or within a specified time, the Court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period extended if request therefor is made before the expiration of the period as originally prescribed or as extended by previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect but the time for a petition for review as prescribed in Article 67(c) will not be extended.

c. *Motions* — A written motion, other than one which may be heard *ex parte*, and notice of the hearing thereof, shall be served not later than five days before the time specified for the hearing, unless a different period is fixed by the Uniform Code of Military Justice or by these rules, or by order of the Court. When a motion is supported by affidavit, the affidavit shall be served with the motion and opposing affidavits may be served not later than one day before the hearing, unless the Court permits them to be served at some other time.

d. *Additional Time*—Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him when such service is made upon him by mail, three days shall be added to the prescribed period if the party upon whom the service is made is within the continental limits of the United States and fifteen days shall be added thereto if the party is located outside those limits.

Rule 16. Methods of Appeal

Cases shall be appealed to this Court by one of two methods. Cases shall be forwarded by a Judge Advocate General under Art. 67 (9) (2) by a certificate for review and such certificate shall substantially meet the requirements hereinafter set forth. All other cases under Art. 67 shall be appealed by a petition for review, regardless of whether the accused has a mandatory right of appeal, and such petition shall substantially meet the requirements hereinafter set forth.

Rule 17. Form of Petition or Certificate for Review

An original and four clear and readable copies of a petition or a certificate for review shall be filed. They shall be typewritten or printed, double-spaced on 8" x 10½" white paper, securely fastened at the left edge. All record references shall show page numbers and any exhibit designations.

Rule 18. Petition for Grant of Review

The petition for grant of review shall be substantially in the following form: (See Page 37).

Rule 19. Certificate for Review

The certificate for review shall be substantially in the following form: (See Page 38).

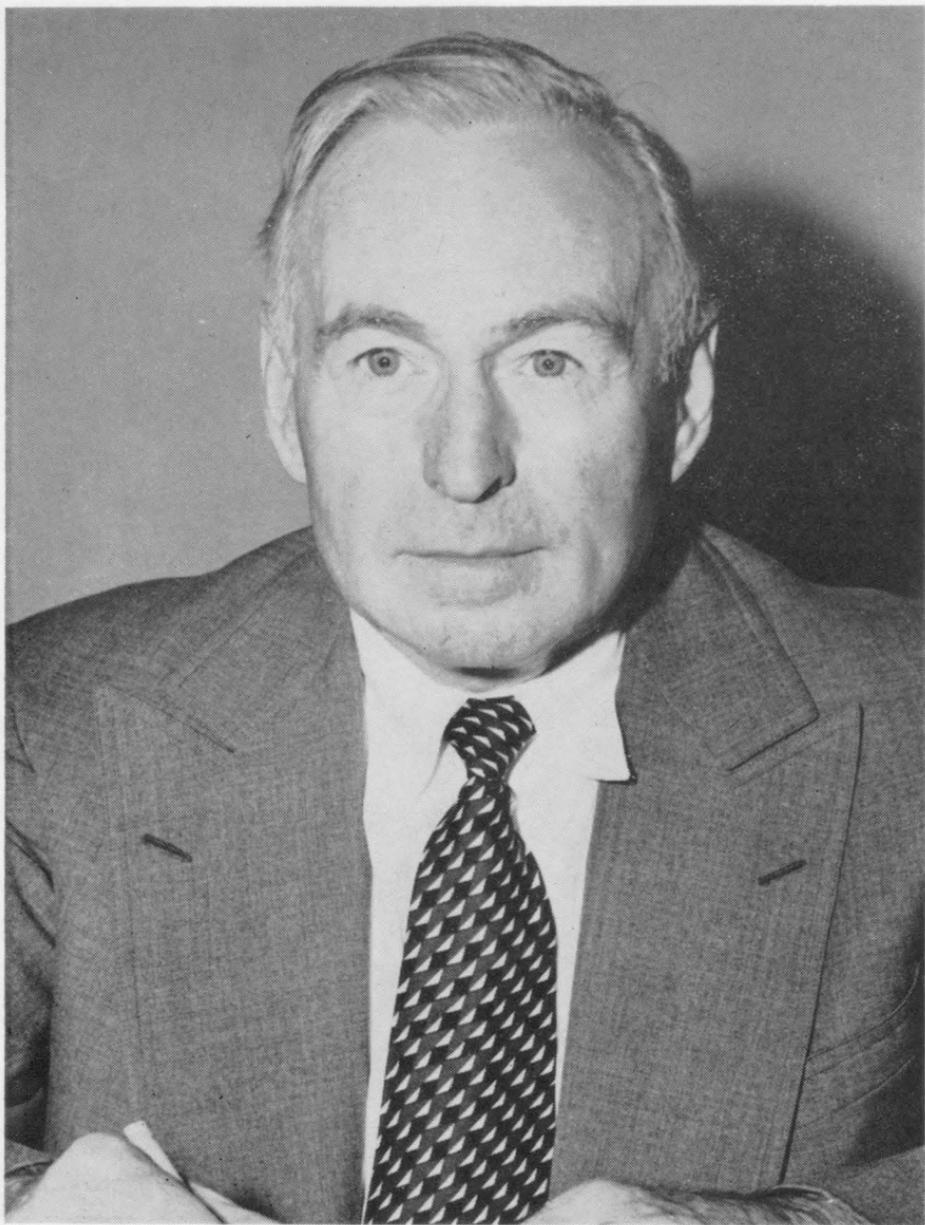
Rule 20. Brief

The form of brief to be submitted to the court shall be substantially as follows: (See Page 39).

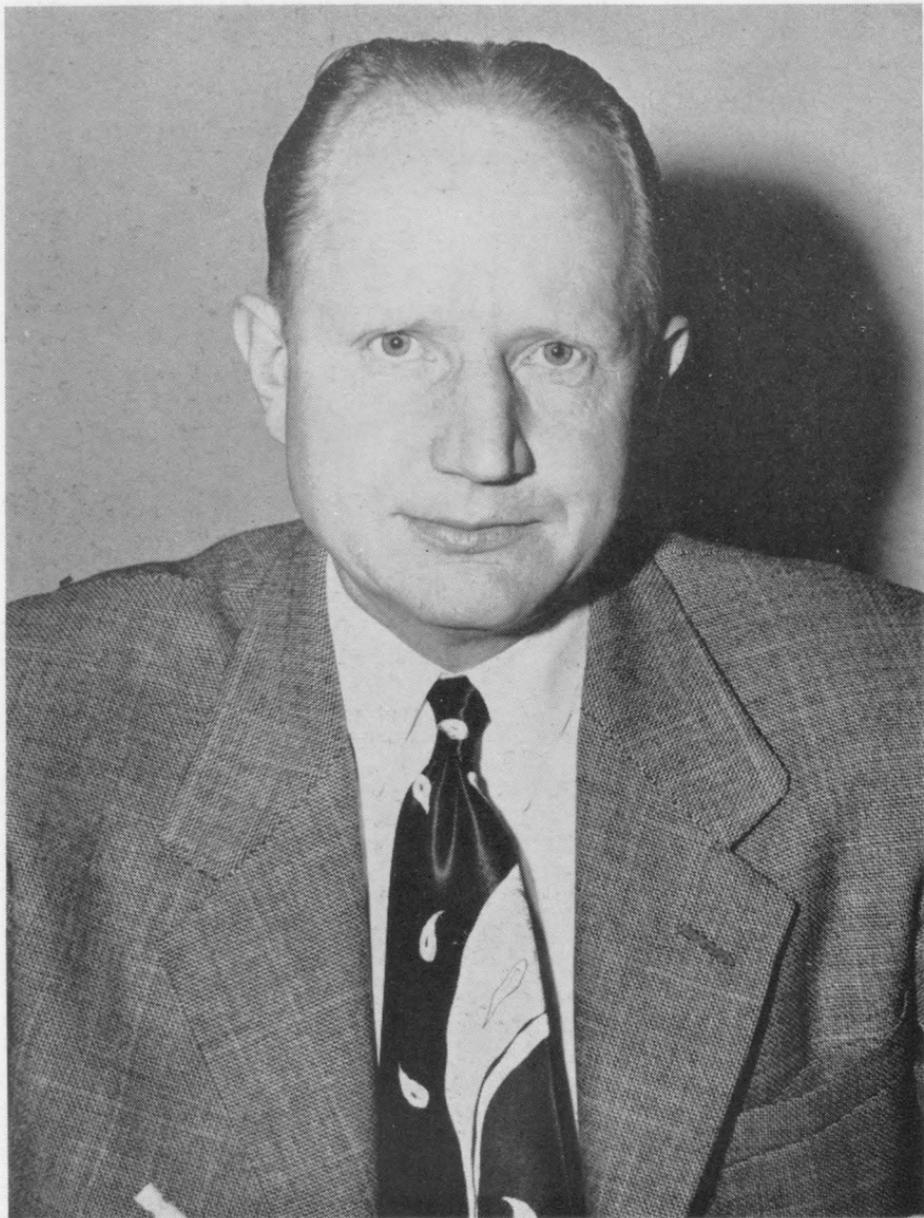
Rule 21. Time for Filing Petition or Certificate

The accused, including general and flag officers and those sentenced to death, shall have thirty days from the date he receives written notice from a Board of Review of its decision, to file a petition with this Court for a grant of review. In those cases governed by Art. 67 (b) (1) if the accused does not file a petition for grant of review the Judge Advocate General shall have 21 additional days in which to forward the record of trial and decision by the Board of Review to this Court.

In those cases certified to this court under Article 67(b)(2) the Judge Advocate General shall file a certificate with this Court within 21 days after the receipt of the decision from a board of review.



CHIEF JUDGE ROBERT E. QUINN OF THE COURT OF MILITARY APPEALS



JUDGE GEORGE W. LATIMER OF THE COURT OF MILITARY APPEALS



JUDGE PAUL W. BROSMAN OF THE COURT OF MILITARY APPEALS

(Continued from Page 30)

Rule 22. Service of Petition or Certificate

Prior to the filing of a petition for grant of review, or certificate for review, service of the petition or the certificate shall be made on the opposing party, namely, Appellate Government Counsel or the accused or his appellate counsel.

Rule 23. Reply to Petition

Within fifteen days after the filing of a petition by an accused for a grant of review under Art. 67(b)(3), Appellate Government Counsel may file a reply brief to the original petition and brief stating his views with respect to the merits of the issues of law raised in the petition and why he believes the petition should not be granted. Such reply brief shall be similar in form to the brief of the accused, except that if the Judge Advocate General disagrees with the statement of facts or desires to supplement it with additional facts he shall start his reply brief with the new information.

Rule 24. Reply to Certificate

Within fifteen days after the filing of a certificate for review by the Judge Advocate General and brief by counsel the opposing party may file a reply brief answering the points raised in the original certificate and brief, stating his views with respect to the merits of the issues of law raised in the certificate and his reasons why the points should be resolved in his favor. The reply shall be similar in form to appellant's brief, except that if opposing party disagrees with the statement of facts or desires to supplement it with additional facts he shall start his reply

brief with the new information.

Rule 25. Parties

In accordance with the provisions of Rule 25, the first party to docket a case with the clerk of the Court shall be designated as appellant. The other party shall be known as appellee. In the event the appellee desires to raise new or additional issues for such purposes he shall be designated cross-appellant and the other party shall be known as cross-appellee.

Rule 26. Arguments on Petition for Grant of Review

Except when ordered by the Court, oral arguments will not be permitted on petitions for grant of review.

Rule 27. Briefs in Support of Final Review

a. *General Provisions*—An original and four clear copies of briefs prepared in accordance with Rule 20 shall be filed. The original must show appropriate proof of service of a copy thereof on opposing counsel.

b. *Filing of Briefs*—The appellant's brief shall be filed within 30 days after receipt of notice that the Court has granted final review. Appellee's brief shall be filed within fifteen days after the receipt of the initial brief. If appellant fails to file a brief, appellee may file his brief within fifteen days after expiration of the time allowed for the filing of appellant's brief. If any brief is not filed within the time prescribed, the court may regard the case as submitted by the delinquent party without a brief.

c. *Moving Party*—If the case first comes before the court under Art. 67(b)(1) and (b)(3) the accused is the appellant; otherwise, the Uni-

ted States shall be deemed the appellant. If the case is before the court both upon the grant of the accused's petition for review and upon a certificate by the Judge Advocate General, then Rule 24 applies.

d. All briefs shall be captioned as indicated in Rule 19 and shall contain an index listing:

1. The divisions of the brief
2. A summary of the argument covering the points raised separately
3. A table of the authorities cited with reference to the pages of the brief where cited.

e. Appellant's brief shall contain:

1. The statement of facts prescribed in Rule 20.
2. The points for reversal of decision listed in Rule 20.
3. Argument in accordance with Rule 20.
4. A conclusion stating concisely why the case should be decided as urged.

f. Appellee's brief shall be similar in form except the matters prescribed in e(1), (2) and (3) of this rule need not be given unless deemed necessary to correct any inaccuracy or omission.

Each side shall be limited to the filing of one brief unless otherwise permitted or ordered by the Court.

Rule 28. Oral Argument

The appellant shall be entitled to open and close the arguments; in the event both parties desire a review of a decision of a board of review, the accused shall be entitled to open and close.

a. *Time*—Not more than forty-five minutes on each side shall be allowed for argument unless the time is extended by leave of court on written motion filed at least five days be-

fore the time of hearing.

b. *Submission on briefs*—A case may be submitted without oral argument with permission of the court.

c. *Failure of counsel to appear*—If counsel fails to appear at the time set for hearing the court may consider the case as having been submitted without argument, or, in its discretion, continue the case until a later date for hearing.

d. *Failure of one party to appear*—If only one party fails to appear the court may hear argument from the party appearing, or in its discretion, continue the case until a later date for argument.

e. *Number of counsel*—Not more than two counsel for each side shall be heard in oral argument unless the court otherwise orders.

f. *Notice of hearing*—The Clerk of the Court shall give at least ten days' notice in writing of the time and place for oral argument.

Rule 29. Petitions for New Trial

a. *Proceedings on*—The proceedings on a petition for new trial referred to the Court of Military Appeals under provisions of Article 73 will be in accordance with these rules except as stated herein.

b. *Additional investigation*—The Court in considering a petition for new trial may refer the matter to a referee to make further investigation, to take evidence and to make such recommendations to the Court as he deems appropriate.

c. *Notice of reference, Answer*—Upon receipt from the Judge Advocate General of a petition by the accused for a new trial in a case pending before the Court, the Clerk shall notify the accused and his counsel. Within ten days after the petition has

been docketed by the Clerk, appellate Government counsel may file an answer thereto.

d. *Briefs*—Accused's brief in support of a petition for a new trial shall be filed within ten days after receipt of notice that an answer has been filed or waived. Any reply brief by Appellate Government Counsel shall be filed within ten days thereafter.

Rule 30. Continuances and Interlocutory Matters

This Court may extend any times prescribed by these rules, may grant continuances and postponements from time to time, and may dispose of any order or other matter that the court considers necessary for a full, fair, and expeditious disposition of the case.

Rule 31. Rehearing or Modifications

A petition for rehearing or modification shall be filed within five days from receipt of notice of entry of decision. It shall briefly and directly state its grounds and be supported by

a certificate of counsel to the effect that it is presented in good faith and not for delay. Such a petition is not subject to oral argument unless expressly authorized by the court.

Rule 32. Service by Mail

Petitions, certificates, briefs, motions and other written documents may be served on opposing counsel by mail. When this form of service is used the following affidavit shall be attached to the original paper filed with the Court. (See Page 40)

Rule 33. Opinions of the Court

All written opinions of the Court shall immediately upon the delivery thereof, be handed to the Clerk to be filed.

The original opinions of the Court shall be filed by the clerk for preservation.

All opinions shall be printed under supervision of the Clerk.

Rule 34. Effective date

These rules shall become effective July 11, 1951.

IN THE UNITED STATES
COURT OF MILITARY APPEALS

UNITED STATES,)
Appellee,)
v.)
Appellant)

PETITION FOR GRANT OF REVIEW
Board of Review No.
Docket No.

TO THE HONORABLE, THE JUDGES OF THE COURT OF MILITARY APPEALS

1. The accused having been found guilty of a violation of the Uniform Code of Military Justice, Article , and having been sentenced to on at by , and said sentence having been approved by the convening authority and affirmed by a board of review on , hereby petitions the Court of Military Appeals for a grant of review of the decision by the board of review.

2. The accused contends that the board of review erred in its consideration of the case on the following questions of law: (Here set forth separately and particularly each error assigned upon which the accused relies.)

3. The accused was notified of the decision of the board of review on

(Signature of Accused or his Counsel)

Received a copy of the foregoing petition for Grant of Review this day of

(The Judge Advocate General)

(Department)

*Service by mail is authorized. For form of affidavit of service see Rule 32.

IN THE UNITED STATES
COURT OF MILITARY APPEALS

UNITED STATES,)
Appellant,)
v.)
_____,)
Appellee)

CERTIFICATE FOR REVIEW

Board of Review No. _____

Docket No. _____

TO THE HONORABLE, THE JUDGES OF THE COURT OF
MILITARY APPEALS

1. Pursuant to the Uniform Code of Military Justice, Article 67, the record of the trial and the decision of the board of review, United States _____, in the above-entitled case, are forwarded for review.
2. The accused was found guilty of a violation of the Uniform Code of Military Justice, Article _____, at _____, was sentenced to _____, on _____, at _____ by _____ The sentence was approved by the convening authority and affirmed by a board of review on _____.
3. It is requested that action be taken with respect to the following issues:

The Judge Advocate General

(Department)

Received a copy of the foregoing Certificate of Review this _____ day of _____

(Appellant)

(Address)

(Appellant Counsel)

(Address)

IN THE UNITED STATES
COURT OF MILITARY APPEALS

UNITED STATES,)
 (Appellee) (Appellant)
 v.)
)
 _____,)
 (Appellant) (Appellee)

BRIEF ON BEHALF OF
 (ACCUSED)(UNITED STATES)
 Board of Review No. _____
 Docket No. _____

Index of Brief

(Omit if brief is less than ten pages)

Statement of Facts

(Set forth a concise statement of the facts of the case material to the issues concerning which any error is assigned. Portions of the record and other matters of evidentiary nature shall not be included in this statement. Pertinent portions of the statement of facts in briefs of appellate counsel or the decision of the board of review may be utilized.)

Assignment of Errors

(Here set forth each error assigned in the petition for grant of review or each issue raised in the certificate for review.)

Argument

(Discuss briefly the points of law presented, citing and quoting such authorities as are deemed pertinent.)

Conclusion

For the reasons stated the accused is entitled under the provisions of the Uniform Code of Military Justice, Article 67b(3) to a grant of review. (This brief is submitted under the provisions of the Rules of Practice and Procedure before the United States Court of Military Appeals and the provisions of the Uniform Code of Military Justice, Article 67b(1) or 67b(2).)

 Signature of Counsel

 Address

Received a copy of the foregoing brief this _____ day of _____

 The Judge Advocate General

 (Department)

The JUDGE ADVOCATE JOURNAL
 IN THE UNITED STATES
 COURT OF MILITARY APPEALS

UNITED STATES,)
 (Appellee) (Appellant)
 v.)
)
 _____,)
 (Appellant) (Appellee)

Board of Review No. _____

Docket No. _____

AFFIDAVIT OF SERVICE BY MAIL

Jane Doe, being first duly sworn, deposes and says, that she is a (clerk)
 () in the employ of (The Judge Advocate General of the
 Army) (), that she placed a copy of the (Notice of Appearance)
 () to which this affidavit is attached, in an
 envelope addressed to (John Doe, Appellate Counsel for the Accused, 100
 Blank Street, Washington, D. C.) () to which en-
 velope appropriate postage was affixed and deposited said envelope enclosing
 said () in a United States mail box at o'clock, M.,
 on the day of 19 .

Subscribed and sworn to before me this day of 19 .

The Judge Advocate General's School

The present emergency and partial mobilization brought about by hostilities in Korea created an urgent demand for trained judge advocate personnel to serve with the Army units in the field. Peacetime training measures, such as on-the-job and extension course training, were insufficient to supply the demand for trained judge advocate personnel.

In October, 1950, at Fort Myer, Va., The Judge Advocate General of the Army established the Judge Advocate General's Course with the mission of training selected officer personnel of the Judge Advocate General's Corps, on active duty, who required refresher training in the duties of the Staff Judge Advocate. Four officer classes, of 50 students each, composed of Reserve, National Guard, Regular, and competitive tour officers completed a five weeks course of instruction in military justice, military affairs, procurement, claims, and international law between October, 1950 and March, 1951.

As the operation of this course progressed, and it appearing that many of the student officers had no previous judge advocate experience, coupled with the fact that the Manual for Courts-Martial, 1951, was being promulgated, it became necessary to change the mission of the course from that of providing refresher training to that of providing basic judge advocate training. This change in mission was implemented by the establishment of the Judge Advocate General's School in April of 1951, and by increasing the course of in-

struction to cover a period of eight weeks training and including in the curriculum a number of additional subjects including instruction made necessary by the newly effective "Uniform Code of Military Justice" and "Manual for Courts Martial, United States—1951."

The Judge Advocate General's School thus established, was placed on a basis comparable to the schools of other branches of the Department of the Army. It will eventually have integrated in it the former Special Projects Division and the Extension School Section of the Office of The Judge Advocate General. This expansion of the school and its mission made necessary the re-location of the school to a site with more permanent facilities.

The Judge Advocate General of the Army has accordingly announced the removal of the Judge Advocate General's School from Fort Myer, Virginia, to the University of Virginia, Charlottesville, Virginia. The school is expected to train 300 additional officers during its first year of operation. It is anticipated that the first class to be held at the new location will begin during the month of September. The Commandant of the school will be Col. Charles L. Decker.

Because of the necessity of training a large number of officers recently ordered into active service, it is not contemplated that presently reserve officers not on active duty will be made eligible to attend the school.

Suspension of The Writ of Habeas Corpus in Hawaii Following Pearl Harbor

By Roland W. Fixel

The suspension of the Writ of Habeas Corpus in Hawaii, following Pearl Harbor, gave rise to an extended controversy in 1943 between the Federal Judiciary in Hawaii and the military authority on the Islands. Articles have been written in justification of the stand taken by the Federal Court in that controversy which appear in the American Bar Journal. One is found on page 447 of Vol. 35, and another in the May 1949 issue. By reason of the importance of the action taken by the Court adjudging the Theater Commander in contempt for failing to produce an internee, it should be of benefit to those concerned with the administration of military justice in the Armed Services, to be familiar with the situation which developed as a result of the action taken in suspending the writ in this instance.

The Hawaiian Islands lie slightly southwest of the mainland of the west coast of the United States and are about 2100 miles distant therefrom. These Islands during World War II were protected by the military forces stationed there, and such elements of the Naval Establishment based there or patrolling the vicinity.

NOTE—The author, a member of the Michigan Bar, retired as a Reserve officer in the rank of Colonel. He was JA of the 7th Army Corps in 1941; JA of the A.T.C., 1941-46; and on the Prosecution Staff of the International Military Tribunal for the Far East in the Tojo Case at Tokyo, 1947-48. He is presently Chief of the Legal Office, Procurement Division, Air Research and Development Command.

The residents of the Islands were unarmed and it developed that there were some whose aim was to assist the enemy in overthrowing the security, the independence, and the allegiance of the Territory of Hawaii in aid of Japan or Germany. No person at the time in question could positively say that the Islands were secure from internal sabotage, or that the Japanese would be unable to launch another attack on the Islands, or that there was no need for Provost Courts, or Military Jurisdiction and control.

To safeguard the lives of those on the Islands, and to protect against possible invasion and destruction of our stronghold in this Pacific outpost, Lt. Gen. Robert C. Richardson, Jr., as the Military Commander of the Hawaiian Area, had the responsibility of military control of the Islands. Later his authority was enlarged to embrace the Pacific Ocean Areas, of which he became Commanding General.

During the time Gen. Richardson exercised his command, the Organic Act of the Territory of Hawaii, which was enacted in 1890, (31 Stat 153; 48 USCA 532) provided as follows:

“The Governor shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the Commander of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory, to prevent or suppress

lawless violence, invasion, insurrection or rebellion in said Territory, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the Territory or any part thereof, under martial law until communication can be had with the President and his decision thereon made known."

It was under the foregoing Act (The Organic Act of the Territory of Hawaii) that Gen. Richardson continued the suspension of the writ of habeas corpus. In fact, his action merely followed action taken by his military predecessor, Gen. Delos C. Emmons, and by Governor Ingram M. Stainback, the Territorial Governor, and Governor Joseph B. Poindexter, his predecessor.

In view of the responsibilities placed on those military and naval officials in charge of protecting Hawaii by the forces entrusted to them and their duty to attain the utmost security by means of the exercise of constitutional authority, it would have been a gross breach of duty on their part if they had failed to use every available means they possessed to achieve this end. The suspension of the writ of habeas corpus was one of the most potent means at their disposal to secure the safety not only of the civilian population, but to avoid sabotage of strategic installations, and frustration of our military efforts, by preventing enemy agents and sympathizers from circulating on the Islands and obtaining and using to our detriment, information of the utmost importance to our National Defense and military planning.

The question presented was, whether, in time of war, in a

theatre of operations as isolated as was Hawaii, and where only recently the Japanese had completely surprised our forces, and where there was no certainty that another blow might not be struck, the Military Commander was to be deprived of the powers vested in him by the law of the land and by his Commander in Chief, to assure the security and protection of his Command, or whether this power and duty was to become subordinate to the power of the Civil Court which was permitted to function on the Islands. The answer seems obvious and clear, and by no theoretical pronouncements that there was no threat of imminent invasion, can the real facts of insecurity and imminent threat be obliterated. If it were to be the established doctrine that the decision of a Military Commander in such cases is reviewable by a court it would indeed be fatuous to entrust the security of a war zone to a Military Commander, and at the same time strip him of all vestige of power to enforce his orders to achieve the desired security.

The matter of the suspension of the writ of habeas corpus in the Territory of Hawaii, prior to the controversy between the local Federal District Judge and Gen. Richardson, in 1943, had been discussed and agreed upon by all interested agencies and offices in the United States Government. When the proposed proclamation was to be issued by the Military Commander of Hawaii, the action was presented to the President in a document dated 18 January 1943, signed by the Secretary of War, the Attorney General and the Secretary of the Interior. This docu-

ment was also approved by Mr. Warner W. Gardner; by Hon. Ingram M. Stainback, the Territorial Governor of Hawaii; by Hon. Abe Fortas, Under Secretary of the Department of the Interior; by Lieut. Gen. Delos C. Emmons, the then Commanding General of the Hawaiian Department, and by Hon. John J. McCloy, Assistant Secretary of War, and was approved by the President. The document stated that: "After lengthy discussions the Department of War, Justice and Interior have reached an operating agreement upon the distribution of governmental functions between the civil and military authorities in the Territory of Hawaii. Pursuant to this agreement the Governor of Hawaii and the Commanding General will issue simultaneous proclamations. Their effect is to leave unchanged the state of martial law and the suspension of the writ of habeas corpus, to restore to the civil government the majority of civil functions hitherto exercised by the military authorities, and to provide emergency powers for the Military Government."

In approving the foregoing proposal, President Roosevelt, on February 1, 1943, said, in a letter to Hon. Henry L. Stimson, Secretary of War:

"I have examined the proposed proclamations to be issued by the Commanding General, Hawaiian Department, and the proposed proclamation to be issued concurrently by the Governor of Hawaii. I understand that the Departments of War, Justice, and Interior have agreed in this manner to solve the difficult questions surrounding the administration of government in the Territory of Hawaii."

"I wish to congratulate all the Departments concerned in their cooperative and successful efforts to reach

an amicable solution of the knotty problems involved. In an area of such strategic importance as the Hawaiian Islands in a time of active war in the Pacific, I can readily appreciate the difficulty in defining exactly the boundaries between civil and military functions. I think the formula which this proclamation applies meets the present needs."

"I know that General Emmons will do all that he can, consistent with his military responsibility, to refrain from exercising his authority over what are normally civil functions. I am confident that the military and civil authorities will cooperate fully. If an occasion should arise on which after consultation with the civil authorities, the Commanding General felt it necessary to take action under the provisions of paragraph 3, I should like to be informed of the circumstances under which such action was taken. I hope also that there will be a further restoration of civil authority as and when the situation permits."

It is to be noted that the foregoing arrangements were made prior to the time General Richardson became Commanding General of the Hawaiian Department and the Pacific Ocean Areas, and while his predecessor, General Emmons was the Military Commander and Governor Stainback, the Civilian Governor of the Hawaiian Islands.

After General Richardson assumed command of the Hawaiian Department, he confirmed the existing order suspending the writ of habeas corpus and secured approval of his action by the President as was required by law. Governor Stainback took similar action.

This was the status of the matter when the order was issued by the Federal Judge requiring General Richardson to produce one Walter Glockner, who was in custody pur-

suant to martial law, pursuant to a writ of habeas corpus. In his answer to the petition for the writ of habeas corpus, General Richardson explained why he had ordered a continuation of the suspension of the writ, in the following language: "———the Territory of Hawaii now is in imminent danger of invasion by the armed forces of the Empire of Japan and of Germany, and has been in such imminent danger of invasion by said armed forces at all times since the invasion of said Territory of Hawaii by the armed forces of Japan on December 7, 1941; that the public peace and safety of the Territory of Hawaii now requires and has at all times since the invasion of the Territory of Hawaii by the said armed forces of the Empire of Japan on December 7, 1941, required, that the privilege of the writ of habeas corpus be suspended within the Territory of Hawaii and that the Territory of Hawaii be placed and remain under martial law."

Notwithstanding the foregoing critical situation, General Richardson presented facts to show that every means was adopted to fully protect any individual against arbitrary action by reason of the suspension of the writ of habeas corpus. A Board of Review was appointed by the Military Governor of the Territory of Hawaii on 16 July 1942, consisting of the Contact Officer, the Intelligence Officer of the Hawaiian Department, the District Intelligence Officer, the FBI Agent in Charge in Honolulu, and this board was charged with the duty to review the recommendations of the Board of Officers and Civilians appointed for the pur-

pose of hearing evidence and making recommendations as to internment of alien enemies, dual citizens and citizens, in those cases heard, tried, and determined, and to examine and review the files and records in each individual case when deemed necessary. The action of the Board thereafter was subject to approval by the Commanding General.

In addition, the Commanding General, Hawaiian Department, on December 14, 1941, appointed a Hearing Board, composed of three civilians, residents of the Island of Oahu, Territory of Hawaii, and one officer of the United States Army, as recorder and executive of the Board, for the purpose of hearing evidence and making recommendations as to the internment of enemy aliens, citizens and dual citizens. This Board held hearings in the cases involving the persons who had been interned, and in order to make a recommendation to intern any specific individual, was required to find that such person was dangerous to the public peace and safety of the United States. The individual concerned was authorized to be present, was permitted to testify and present witnesses before the Hearing Board. In addition, the Commanding General appointed another Board which acted as a Board of Review and a further hearing was permitted before this Board. Final action was taken by the General, based on the testimony and recommendations of the Hearing Boards.

There is no question that due process of law was fully observed, and the fundamental rights of a hearing before a tribunal were not dispensed with.

The Judiciary, in asserting that the suspension of the writ of habeas corpus had no legal effect on the power of the court, presumably relied on the well established principle that the right to a writ of habeas corpus cannot be suspended while the civil courts continue to function. Opposed to this view, the military authorities took the view that the civil courts in Hawaii at that time continued to function only by agreement and consequently no inference could be drawn that military control was not necessary.

It is noteworthy that the President approved the suspension of the writ of habeas corpus without exception. This circumstance appeared to vest the final responsibility of determining who were and who were not dangerous persons subject to internment in the military and not the judicial authorities.

The suspension of the writ of habeas corpus in Hawaii was no more drastic or far reaching at the time in question than was the restriction on entry into and exit

from Hawaii, which was also within the sole control of the Theater Commander. These measures, including the suspension of the writ of habeas corpus, were temporary measures to insure the preservation of the safety of the Islands during the emergency and were a concomitant of the power of the military forces to preserve this outpost as an American territory.

When the controversy finally was lodged in the Supreme Court of the United States, in the case of *Ex Parte Duncan*, 327 U.S. 304, 90 L. Ed. 688, 66 S. Ct. 606, the court, by a majority, decided that notwithstanding the provisions of the Organic Law of Hawaii authorizing suspension of the writ of habeas corpus, the paramount right to such a writ under the United States Constitution must be accorded a petitioner. This in effect established the principle that the Organic Act of the Territory of Hawaii be interpreted not solely by its own provisions, but also by the applicable provisions of the Constitution of the United States.

Attend the annual dinner and business meeting of the Association to be held in New York City at the Park Lane Hotel, September 18-19. Make your reservations now by writing to Col. Arthur Levitt, 369 Lexington Avenue, New York City.

The back pages of this issue contain a supplement to the Directory of Members, November 1950, and the supplement previously published in the March 1951, issue of the Journal.

Army Judge Advocate Students Earn Law Degrees

June graduates from eleven of the country's top law schools witnessed the awarding of LL.B. degrees to twenty-nine Regular Army officers completing three years of law school education under the sponsorship of the Office of The Advocate General, Department of the Army.

All of these officers detailed in the Judge Advocate General's Corps from the several arms and services for the purpose of attending civilian law schools may look back on scholastic records reflecting most commendably upon their educational attainments. All of them have done exceptionally well in law school and fourteen have been elected to the Order of the Coif or designated as members or editors of law reviews.

The University of Virginia graduated a group of five officers who have earned scholastic distinction. Lt. Cols. Robert M. Williams, William P. Francisco, and Majors Earl V. Brown, Kenneth C. Crawford, and Peter C. Manson were all selected for the Order of the Coif.

Yale University graduated Lt. Col. Hulen D. Wendorf and Majors John Baker and Richard de F. Cleverly. Col. Wendorf, during his course of studies, served on the staff of the Law Journal.

At Georgetown University, Majors Arthur R. Barry, William G. Downey, Jr., and Harlow M. Huckabee graduated. Maj. Barry was a member of the staff of the Georgetown University Law Journal.

Capt. William B. Carne received his Bachelor of Laws degree from George Washington University and has successfully passed the State of

Virginia bar examination.

Stanford University graduated Majors Harold E. Parker and Henry W. Witcover, both of whom were in the top percentage of students receiving law degrees. Each of these officers has held the position of Editor-in-Chief of the Law Review.

At the University of California, Col. Robert E. Chandler and Maj. John W. Burtchaell received LL.B. degrees.

At Harvard University the degree of Bachelor of Laws was presented to these four student officers, Lt. Col. John F. T. Murray, Majors Jesse M. Charlton, Jr., and John J. D. Kooken and 1st Lt. John A. Noble.

The University of Chicago graduated Capt. Robert M. Mummy.

From the University of Michigan, the headquarters of the Judge Advocate General's School during World War II, Lt. Cols. Lawrence J. Fuller, Richard F. Ludeman and Walter J. Rankin received their degrees. Col. Fuller also served as a member of the Law Review Staff.

At Columbia University, Lt. Col. Edward F. Kent and Maj. Edwin G. Schuck, both of the Law Review, were presented with degrees of Bachelor of Laws.

The University of Pennsylvania conferred degrees upon Captains Robert F. Maguire and John TeSelle, the former serving as Managing Editor, the latter on the board of the Law Review.

In addition to the law school curriculum every graduating officer has served summer clerkships during vacation periods after the completion of the first and second years. These

clerkships have been in the law offices of excellent firms enjoying a varied civilian practice. Many of such firms include Reserve officers of this Corps who served on active duty during the recent war. In virtually every instance the senior member of the firm, upon the completion of a clerkship period, has commended the creditable manner in which the officer concerned

performed his various duties with the firm.

The original selection of officers to attend civilian law schools is made by the Judge Advocate General's Selection Board from a large field of Regular Army officer applicants. Such screening has consistently assured the Corps of the highest selectivity in this program.

General Harmon Awarded Doctor of Law Degree

The degree of Doctor of Laws was conferred on Major General Reginald C. Harmon, The Judge Advocate General of the Air Force, by National University School of Law, Washington, D. C., on June 8, 1951, at its eighty-second annual convocation. General Harmon, delivering the commencement address encouraged the 55 graduating young lawyers to take leadership roles in the national and world community life.

The University's Chancellor, Associate Justice of the U.S. Supreme Court, William O. Douglas, presided at the exercises held at the Chamber of Commerce Building, Washington, D. C. Representatives of the Bench, D. C. Bar and Judge Advocate General's Department attended. Among those present were Chief Judge of the Municipal Court for the District of Columbia, George F. Barse; Brigadier General Albert M. Kuhfeld, USAF, Assistant Judge Advocate General for Military Justice; and Brigadier General Herbert M. Kidner, USAF, Assistant Judge Advocate General for Appellate Services.

The principal speaker, General Harmon, has maintained an active interest in the field of legal education, addressing student groups, taking part in seminars on legal

education (both military and civilian), and maintaining close association in advisory capacities with committees on legal education. He established the first Air Force Judge Advocate General's School at the Air University, designed to indoctrinate young officer-lawyers in the performance of Judge Advocate functions. Under his direction a curriculum was developed covering the major fields of law in which members of the Judge Advocate General's Department are required to be prepared. This school is having the result of producing Judge Advocates of greater use to the military service.

Among the innovations introduced by General Harmon was a new reporting system for the Judge Advocate General's Department consisting of two sets of volumes of military law. One set is the court-martial reports containing complete opinions on the appellate review of court-martial cases and the other set is the digest of the opinions of The Judge Advocate General in all fields of law, both sets with annotations, headnotes and adequate indices, together with case tables and citators, all similar to that employed by the reporting systems

used by civilian courts. This is the first time a system of this kind has ever been established in the military service and has been adopted by the

National Military Establishment for the combined use of all three services and the new Court of Military Appeals.

Book Announcement:

Procedural Aspects of the Nuernberg Trials

The National Defense Establishment is in the process of publishing a book illustrating the most important problems of adjective law which arose in the Nuernberg trials.

Following the trial of Goering, et al, before the International Military Tribunal in Nuernberg, the United States, under the authority granted it as an occupying power in Germany by the quadripartite Allied Control Council Law No. 10, conducted twelve additional trials of war criminals before Nuernberg military tribunals. As a follow up of these subsequent trials the Department of the Army is compiling, and the Government Printing Office is publishing, a series of fifteen volumes (six of which are now available) of important extracts from the official court records. The first fourteen volumes of the series deal chiefly with the substantive issues involved. Volume Fifteen, entitled "Procedure, Practice and Administration" is now compiled and will be published in the near future. While the volume is basically a compilation of illustrative court papers rather than a treatise, each chapter, as well as the volume as a whole and many of the subchapters, includes an expository introduction.

In its early pages the book sets forth the jurisdictional basis for the trials. This is followed by materials illustrating the development

of uniform rules of procedure for the various military tribunals. Of particular significance to military lawyers, who, in view of the world situation, might at any time be called upon to carry forward judicial proceedings against war criminals, are the chapters on judicial administration. Among these are the chapters covering the functioning of a central secretariat, the mode of indictment and conduct of the prosecution, the use of alternate judges, the functioning of a committee of presiding judges, joint sessions of tribunals, the handling of the language problem where more than one language is involved, problems on the order of trial, the taking of evidence on commission, incidents of contempt of court and reprimands, and the review of sentences.

The responsibility of insuring the defendants a fair trial is treated quite extensively, as are also the allied problems of preventing unreasonable delays, the absences of defendants from the trial and the inability of defendants to stand trial.

The longest single chapter in the volume deals with the practice concerning various types of evidence, particularly the procurement and presentation of documentary evidence, the testimony of witnesses and the use of affidavits and depositions.

In all the work contains twenty-seven chapters treating of nearly every important type of procedural and administrative problem which faced the tribunals. Although the selections are not exhaustive, they are representative. Since the twelve cases consumed over 1,200 court days and 330,000 pages of transcript, exclusive of documentary evidence and briefs, a fair presentation in one volume of the procedural aspects necessitated considerable condensation. Selection of the materials in-

cluded in Volume Fifteen has been the responsibility of Mr. Drexel A. Sprecher, of the Wisconsin Bar, assisted by Mr. James M. Fitzpatrick of the District of Columbia Bar, Mr. Norbert G. Barr and Mrs. Erna Uiberall, all of whom were attached to the Office of Chief Counsel for War Crimes—Nuernberg.

This work may be secured from the Government Printing Office, Superintendent of Documents, Washington 25, D.C. at an approximate cost of \$3.75.

WHAT THE MEMBERS ARE DOING

CONNECTICUT

Paul J. Driscoll (4th OC & S & F) recently became a member of the firm of Brown, Jewett and Driscoll for the practice of law at 63 Broadway, Norwich.

DISTRICT OF COLUMBIA

Thomas H. King has removed his offices for the practice of law to 1624 Eye Street N. W., Washington 6. Col. King recently returned from a business trip to Europe which took him to Germany and the low countries.

Brig. Gen. Bert E. Johnson, Assistant Judge Advocate General, USAF, recently returned from a forty-five day tour of Europe.

Maj. Dorothy E. Salipante of the Massachusetts Bar and the first woman member of the Judge Advocates Association is enrolled in the Air University Judge Advocate School, Maxwell Air Force Base, Montgomery, Alabama.

Members of the Association in the District of Columbia area hold regular monthly dinner meetings on the

last Monday of each month September through June. All members of the Association who happen to be in Washington on these meeting dates are invited and certainly welcomed to attend these very pleasant and interesting meetings.

FLORIDA

The Florida Military District, working in conjunction with the Judge Advocate General of the Third Army, held a contact course at the Jacksonville Naval Air Station during the week-end of May 18-20. The following members of the Association were in attendance: Lt. Col. Addison P. Drummond, Bonifay; Col. Hayford O. Enwall, Gainesville; Col. Edward S. Hemphill, Jacksonville, (3rd Off); Col. R. E. Kunkel, Miami; Lt. Col. John W. Prunty, Miami; Col. Albert S. Lisenby, Panama City, (5th Off); Lt. Col. Jesse F. Warren, Jr., Tallahassee, (14th Off).

MAINE

Alexander A. LaFleur (4th Off), of Portland, formerly of the Office of

the County Attorney of Cumberland County, is now the Attorney General of the State of Maine.

MARYLAND

Capt. Robert E. Clapp, Jr., (5th OC) recently resigned as Maryland's Assistant Attorney General for the State Roads Commission and resumed full time practice of law in Frederick.

Col. Joseph H. Howard is now Vice President of the Calvert Fire Insurance Company with offices in the First National Bank Building, Baltimore, and is Staff Judge Advocate, 29th Infantry Division, Maryland National Guard.

Lt. Weldon F. Maddox has been recalled to active duty and is now assigned to the office of Staff Judge Advocate, Hq. 2nd Army, Fort George G. Meade. During World War II Lt. Maddox served as an Intelligence Officer in Guatemala and India-Burma theater.

Maj. Martin K. Miller was recently appointed a Magistrate in Baltimore by Governor McKeldin. Maj. Miller is also engaged in the practice of law with offices at 1507 Court Square Building, Baltimore.

Lt. Col. Copeland Morton, Jr., is now tax counsel for the Maryland Casualty Company with offices at 701 West 40th Street, Baltimore.

Capt. Lester Nurick (6th Off) is a member of the Legal Department of the International Bank for Reconstruction and Development, 1818 H Street, N. W., Washington 25, D. C. His recent work has necessitated trips to England, France, Switzerland, Union of South Africa and other countries.

Col. Elwood W. Sargent is at present Army Staff Judge Advocate, Hq.

2nd Army, Fort George G. Meade. Col. Sargent was integrated in the regular Army in February 1947.

Lt. Col. James M. Scott, regular Army since 1946, is now Staff J.A.G., 5th Infantry Division, Indianhorn Gap, Pa.

Capt. Wilson R. Toula is now engaged in the general practice of law with offices at 34 Central Savings Bank Building, Baltimore 2. Capt. Toula had the distinction of becoming the father of twins and passing his Bar Examination during 1946.

Maj. Lewis H. Ward, USAFR, was until 1949 a Lt. Cdr. in the Navy in charge of contract termination. Since his transfer to the Air Force, Maj. Ward has been legal advisor in the office of the Judge Advocate General, USAF, Moses Building, Washington, D. C.

Maj. Robert H. Williams, Jr., (19th Off) is now actively engaged in the practice of admiralty law with offices at 909 Maryland Trust Building, Baltimore. Maj. Williams recently married a charming Baltimore girl, Miss Vashti Louise Winslow, and the couple reside in their new home at 401 E. 39th Street, Baltimore 18.

Capt. O. Bowie Duckett (11th Off) 1951 Maryland State Chairman of the Judge Advocates Association is practicing law with offices at 1208 Munsey Building, Baltimore 2, and is also Special Assistant Attorney General in charge of matters dealing with subversive activities.

MASSACHUSETTS

Maj. Anthony Julian (1st OC and S&F) of Watertown was honored by receiving papal knighthood in the Ancient Order of the Holy Sepulchre of Jerusalem from Pope Pius XII. The

Order is over 1,000 years old and was established to safeguard the Christian monuments and sanctuaries in the Holy Land and to preserve the faith. Maj. Julian was also recently awarded the Star of Solidarity by the Italian Government for aiding in the post-war reconstruction and in the defeat of Communism in that country.

The New England Chapter of the Association held its annual meeting on June 15th at the Engineers Club, Boston. Martin H. Tobin (6th Off), president of the organization, presided. The principal speaker was Judge Robert E. Quinn, war time Naval JAG captain and recently appointed Chief Judge of the new Court of Military Appeals. The following officers were elected for the ensuing year: Thomas L. Thistle, President; Sidney S. Rosen, Vice President; David M. Owens, Treasurer; Lenahan O'Connell, Secretary. Maj. William D. Whelan, Judge Advocate for the New England area, attended and spoke on the New Manual for Courts-Martial. Among those present were Frederick Corcoran, Warren F. Farr, Louis R. Shaffer, Lawrence Kearns, Ralph G. Boyd, Joseph F. O'Connell, Jr., and Harold G. Sullivan. The chapter voted to have three meetings in the next year.

Gerald T. O'Hara (9th OC) of the Boston Bar has been recalled to duty with the Judicial Council of the Army.

Lenahan O'Connell of Boston is an Assistant Attorney General of Massachusetts.

Loomis Patrick (6th Off) of Boston has been appointed a Public Administrator for Middlesex County.

Capt. James Sousa of Hudson is now on duty as Assistant Staff Judge

Advocate of the 11th Airborne Division.

Joseph F. O'Connell, Jr. (6th Off) of Boston has been appointed to the Board of Sinking Fund Commissioners by Mayor Hynes of Boston. (The Board deals in nothing less than six figures of U.S. currency.)

Thomas L. Thistle (2nd Off) has been elected Mayor of the City of Melrose.

MICHIGAN

Col. James E. Spier (9th Off) of Mt. Clemens wrote an article in the February 1951 issue of the Michigan State Bar Journal on the use of a lie detector in a civil case. Col. Spier is now a Circuit Judge in Michigan and active in the reserve training of the 5692nd JAG Training Unit in Detroit. He is a long time member of the Association.

MISSOURI

William E. Buder (8th OC) of the St. Louis Bar was recently elected President of the Bar Association of St. Louis. He was formerly the Judge Advocate of the Vienna Area Command, U.S. Forces in Austria.

Omar H. Avery, (5th Off) of Troy, was elected State Representative from Lincoln County.

MONTANA

John Bonner (3rd Off) still rules the destinies of the good people of the State of Montana as their Governor.

NEVADA

Richard Hanna is going about his daily tasks in Carson City, the smallest state capital in the Union.

Judge Frank McNamee is presiding over the District Court at Las Vegas

and is rapidly becoming known as one of the foremost and most brilliant District Judges of the state. He is frequently called to other jurisdictions to preside in cases where important and complicated legal points are involved. During the time he has been on the Bench he has made an unusually fine record in that the Supreme Court usually agrees with him, and his reversals have been very few, if any.

Ryland G. Taylor is practicing law in Las Vegas and enjoying a very fine remunerative practice.

Gordon W. Rice has recently formed a new law firm composed of Senator Pat McCarran, the senior senator from this state, Virgil Wedge, who was recently City Attorney of the City of Reno, and Richard Blakey, who was recently assistant City Attorney. The firm is known as McCarran, Rice, Wedge and Blakey, and has associated with it John Gabrielli. The offices comprise one half the third floor of the Triune Building and is perhaps the most luxuriously furnished and decorated office in the State of Nevada at the present time.

Clel Georgetta is leading the normal life of a general practitioner of the law, but is enjoying a remunerative practice which is sufficiently diversified to be interesting. He is also enjoying the rentals that come in from the Triune Building, which has proven to be a successful financial venture to such an extent that he is contemplating the possibility of constructing another building.

NEW JERSEY

C. Russell Kramer (7th OC) is practicing law at 810 Broad Street, Newark. In addition thereto, he is a

Magistrate of the Municipal Court in Cedar Grove, N. J.

Harold L. Wertheimer is practicing law with the firm of Wertheimer and Hyman in Atlantic City.

Howard K. Shaw (1st Off) is practicing law in Trenton.

Robert A. Hitch is a member of the legal staff of the Veterans Administration, Newark.

NEW YORK

Clifton H. Stannage recently announced the removal of his office for the practice of law to 270 Broadway, New York City.

David George Paston recently reopened his offices for the general practice of law at 220 Broadway, New York 38. Col. Paston was Chief U.S. Prosecutor of War Crimes Trials in Austria.

Maj. Bertram Schwartz has recently been appointed Leturer at the New York University Graduate Law School and is presently teaching a course on Military Justice.

OREGON

Lt. Col. Ben G. Fleischman, (3rd OC) Portland, recently visited Washington, D. C., with Brig. Gen. Chester McCarty, Commanding General for the 403rd Wing at Portland Air Base.

Lt. Virgil H. Langtry (12th OC) was recently appointed Circuit Judge for Multnomah County.

Lt. Col. Willis A. Potter, recently returned from Korea, is convalescing at Letterman General Hospital for injuries received on change of station.

Lt. Col. Willis West (7th Off) was recently appointed General Counsel and Enforcement Attorney of OPS in Oregon.

PENNSYLVANIA

Col. George H. Hafer (15th Off) of Harrisburg was recently appointed Commissioner on Uniform State Laws for the State of Pennsylvania by Governor Fine. He attended a combined meeting of the Commissioners on Uniform State Laws and the American Law Institute in Washington, May 16-19, 1951. By his appointment, he joins with two other members of the Association who are Commissioners: Robert B. Harwood of Alabama and Joseph F. O'Connell, Jr. of Massachusetts.

SOUTH DAKOTA

Lt. William S. Churchill (12th OC) of the law firm of Churchill and Churchill in Huron was recently recalled to active duty and is now in the office of The Judge Advocate General in Washington, D. C.

Ralph E. Mauch (19th Off) is employed as counsel for the Northwestern Public Service Company in Huron.

Leo A. Temmey is practicing law in Huron as a member of the firm of Temmey and Luby.

Lee H. Cope and John E. Walsh (2nd OC) are practicing law at Yankton.

TEXAS

John F. Sutton, Jr. of San Angelo recently announced the formation of a partnership for the practice of law under the style, Holdridge & Sutton. Their offices will be in the McBurnett Building at San Angelo.

WASHINGTON

Smith Troy (7th Off) is Attorney General of the State of Washington.

DECEASED MEMBERS

The Association announces with regret the recent deaths of Lt. Col. William W. Ash of Easton, Pennsylvania; Col. Morris Lieberman of Jersey City, New Jersey; and Col. Lester J. Abele of Cleveland, Ohio.

A strong Association can serve you better. Pay your annual dues. If you are uncertain as to your dues status, write to the offices of the Association for a statement. Stay active. Recommend new members. Remember the Judge Advocates Association represents the lawyers of all components of all the Armed Forces.

Be sure to read the Nominating Committee's Report in this issue.

SUPPLEMENT TO DIRECTORY OF MEMBERS OF NOVEMBER, 1950

Note: This is not a cumulative supplement, but is to be used with the supplement contained in Bulletin No. 7, March 1951, of the Judge Advocate Journal.

NEW MEMBERS AND OTHERS NOT LISTED IN DIRECTORY OF NOVEMBER, 1950

Lt. Stephen E. Allen, Jr.
Headquarters, 3461st ASU
Camp Rucker, Alabama

Roswell M. Austin
The Kennedy-Warren
3133 Connecticut Ave., N. W.
Washington 8, D. C.

John B. Bennett
2601 DeSoto
Coral Gables, Florida

Yandell Boatner
First National Bank Bldg.
Shreveport, Louisiana

Frederick R. Bolton
2237 Dime Building
Detroit 26, Michigan

Robert C. Boyer
1705 Washington Blvd. Bldg.
Detroit 26, Michigan

Lt. William M. Burch, II
Azores Air Transport Station
APO 406, % Postmaster
New York, New York

Lt. Cdr. Anthony J. Caliendo
U. S. Coast Guard Headquarters
Washington 25, D. C.

Ashley B. Carrick
15 Exchange Place
Jersey City, New Jersey

Capt. Francis R. Coogan
Box 79, Bolling Air Force Base
Washington, D. C.

Capt. Herman Cooper
Apt. 208, 901 Arrowhead Ave.
San Bernardino, California

Bartholomew B. Coyne
1010 Vermont Avenue, N. W.
Washington 5, D. C.

Thomas O. Criswell, Jr.
P. O. Box 541
Durant, Oklahoma

James C. Davie
220 N. Jefferson St.
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Irving E. Dickman
135-39 Northern Boulevard
Flushing 54, New York

John P. Dinsmore
3112 N Street, N. W.
Washington, D. C.

Aubrey Dominick
198 Highlands
Tuscaloosa, Alabama

Frank F. Eckdall
Citizens Bank Building
Emporia, Kansas

Riley Eugene Fletcher
706 West 4th Avenue
Corsicana, Texas

Herbert B. Frederick
Circuit Judge's Chambers
Daytona Beach, Florida

Horace G. Geer
JA Section
Hq., 6th Army
Presidio of San Francisco,
California

Joseph K. Grigsby
% R. O. Conklin
10 Powers Lane Place
Decatur, Illinois

Theodore Grushko
1056 Penobscot Building
Detroit, Michigan

Lt. Fielding D. Haas
3545th Training Squadron
Goodfellow Air Force Base
San Angelo, Texas

Harry S. Hamilton
201 Savings Bank Building
Ithaca, New York

Lt. Col. Fred B. Hammond, Jr.
Bolling Air Force Base
Washington 25, D. C.

Maj. Robert Roy Hawfield
Asst. Post Judge Advocate
Camp Stoneman, California

W. Colbert Hawkins
Sylvania, Georgia

George Heath
1601 20th Street
Vero Beach, Florida

Gerald T. Hershcopf
521 Fifth Avenue
New York, New York

Paul D. Heyman
147-07 72nd Drive
Flushing, L. I., New York

Robert E. Hunt
505 First National Bank Bldg.
Peoria, Illinois

James H. Johnson
434 N. W. 20th Street
Oklahoma City 3, Oklahoma

Marshall G. Kaplan
186 Joralemon Street
Brooklyn 2, New York

Kenneth L. Karr
836 So. Michigan Avenue
Chicago 5, Illinois

Capt. William R. Kenny
Bolling Air Force Base
Washington 25, D. C.

Paul H. LaRue
Federal Trade Commission
Washington 25, D. C.

Boyd Laughlin
McClintic Building
Midland, Texas

Lt. Helene P. Lawrence
JA Section
Hq., Nurnberg Mil. Post
APO 696, % Postmaster
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100 State Street
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Kelly Air Force Base, Texas

Philip B. Matthews
61 Main Street
Southampton, New York

Robert G. Mayfield
8106 New Hampshire Avenue
Silver Spring, Maryland

Col. Donald P. Mayhew
Staff Judge Advocate
Lowry Air Force Base
Denver, Colorado

John J. McCurdy
Lincoln, Kansas

Thomas D. McDonald
P. O. Box 171
Huntsville, Alabama

Edward O'Connell, Jr.
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Birmingham 5, Alabama

John F. O'Connor
11 Huguenot Drive
Larchmont, New York

Michael A. Pelle
566 N.E. 15th St.
Miami, Florida

Alex Pendleton
P. O. Box 1034
Tokyo, Japan

Eugene E. Pratt
5415 Connecticut Ave.,
Washington 15, D. C.

Alan M. Prewitt, Jr.
Bolivar, Tennessee

Walter W. Regirer
Mutual Building
Richmond 19, Virginia

Henry A. Riddle
5 West Market Street
Lewistown, Pennsylvania

John Joseph Rigney
Citizens Bank Building
94 High Street
Chillicothe, Ohio

Col. Allen W. Rigsby
Hq., SAC, Offutt Air Force Base
Omaha, Nebraska

Sam Wallace Russ
810 River Heights
Tampa, Florida

Leonard F. Schmitt
1006½ E. Main Street
Merrill, Wisconsin

Hon. Winfield Scott Slocum
Court of Common Pleas, Lake County
Painesville, Ohio

Charles B. Seton
575 Madison Avenue
New York 22, N. Y.

Orville F. Sherwood
514 Dime Building
Detroit 26, Michigan

Melvin H. Siegel
2651 16th Street, N. W., Apt. 604
Washington, D. C.

Lt. Col. Ernest B. Skinner, JAGC
Ft. Richardson, U.S. Army, Alaska
APO 942, % Postmaster
Seattle, Washington

Robert G. Sommer
1235 Lenox Avenue
Miami Beach, Florida

Douglas C. Stone
Commercial Dispatch Building
Columbus, Mississippi

Louis Susman
2230 Grand Concourse
New York 57, N. Y.

Hon. Andrew T. Taylor
Court House
Jackson, Tennessee

Lt. Lee S. Tennyson
Hq., 30th Air Division (Defense)
Selfridge Air Force Base, Michigan

A. J. Thomas, Jr.
P. O. Box 744
Starke, Florida

Richard J. Thornton
913 Alfred I. duPont Bldg.
Miami 32, Florida

Col. Ralph W. Totman
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Walter R. Trinkaus
706 Title Guaranty Bldg.
Los Angeles, California

Lt. Col. John R. Turman
JA Section, Hq. 7th Inf. Div.
APO 7, % Postmaster
San Francisco, California

Maj. Edward M. Wall
Hq., Air Command & Staff School
Maxwell Air Force Base
Montgomery, Alabama

Col. Edward J. Walsh
Staff Judge Advocate
Ft. Benning, Georgia

Michael J. Watman
7 E. 85th Street
New York, N. Y.

Lt. Col. Thomas D. Wood
Office of the Staff Judge Advocate
Hqs., SAAMA
Kelly Air Force Base, Texas

Milton Zacharias
610 Schweiter Building
Wichita, Kansas

Lt. Morton H. Zucker
107 AC & W Squadron
Westchester Airport
White Plains, New York

CHANGES OF ADDRESS

Lt. Col. Frank C. Alfred
Box 314
Ft. Bliss, Texas

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2212 39th Place, N. W.
Washington, D. C.

Lt. Col. John W. Barry
5819 Beaumont
LaJolla, California

John C. Baumann
417 N. Washington Avenue
Warrensburg, Missouri

Capt. Charles Bertrand Bayly, Jr.
2803 A 16th Road, S.
Arlington, Virginia

Ralph E. Boggess
1501 Petroleum Building
Oklahoma City, Oklahoma

Capt. John D. Crocker
Hq., 10th Inf. Div.
Fort Riley, Kansas

J. F. Curran
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Col. William S. Dolan
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Fort Bragg, North Carolina

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620 S. Third Street
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704 Davenport Bank Building
Davenport, Iowa

Ray M. Harris
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Washington, D. C.

Maj. Burton E. Hoffmann
JAGC, Camp McCoy
Wisconsin

Capt. Richard S. Hudson
Military Affairs Division
JAGO
Department of the Army
Washington 25, D. C.

William Pollard Jent
212 S. Hampton Drive
Silver Spring, Maryland

Lt. Col. Bernard A. Katz
Hq. & Hq. Sqdn.
9th Air Force
Pope Air Force Base, No. Carolina

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