

ORAL HISTORY  
OF  
HOWARD S. LEVIE  
COLONEL (RETIRED)  
JUDGE ADVOCATE GENERAL'S CORPS

APRIL 1987

CAPTAIN THOMAS DOUGALL  
CAPTAIN RICHARD GORDON

## Biography

Colonel Howard S. Levie was born in Wolverine, Michigan on December 19, 1907. As a young child he grew up in Baltimore, Maryland and New York City attending public schools in both cities. He attended Speyer Experimental Junior High School, the first junior high school in the United States and graduated from DeWitt Clinton High School, which would later cite him as a Distinguished Alumnus.

He earned an A.B. degree from Cornell University in 1928, graduating Phi Beta Kappa. While at Cornell, he participated in the University of Delaware Foreign Study Group, the first organized year abroad program for American university students. He earned his J.D. from Cornell in 1930 and was awarded a LL.M. degree from George Washington University School of Law in 1957.

Colonel Levie was admitted to the New York Bar in 1931 and practiced law in New York City until 1942 when he volunteered for service in WWII. He graduated from Officer Candidate School in 1943 and was commissioned a Second Lieutenant, Coast Artillery Corps, subsequently serving in the Southwest Pacific until the cessation of hostilities. He decided to remain in the Army and accepted a Judge Advocate General's Corps commission in 1946.

Colonel Levie's military assignments include duty as the Chief, War Crimes Division, Office of the Command Staff Judge Advocate, Far East and United Nations Command; Chief, International Affairs Division, Office of The Judge Advocate General; Staff Judge Advocate, Fort Leavenworth; Staff Judge Advocate, United States Army Southern European Task Force; First Legal Adviser, U.S. European Command, and Staff Judge Advocate, Sixth United States Army. His most noteworthy assignment was as the only Judge Advocate to participate in the Korean Armistice negotiations where he served as the draftsman for the Armistice Agreement. His military decorations include the Legion of Merit and the Bronze Star.

Colonel Levie's legal career did not end with his retirement from the Army in 1961. In 1963 he became a Professor of Law at St. Louis University and continues today as Professor Emeritus of Law. He served as an International Law Consultant to the United States Naval War College from 1965 to 1971; the Stockton Professor of International Law at the NWC; the Lowry Professor at the NWC, and to this day, he is often called upon as a lecturer to classes at the NWC. He currently serves as an instructor in Public International Law, Salve Regina College in Newport, Rhode Island.

Colonel Levie's intellectual credits are equally noteworthy. He has authored three books to include Prisoners of War in International Armed Conflict, which was awarded the 1982 Triennial Ciardi Prize of the International Society of Military Law and the Law of War. He has edited several other books and authored some 43 articles on varying legal issues.

Colonel Levie resides in Newport, Rhode Island with his wife, Blanche.

BIOGRAPHICAL MATERIAL

PROFESSOR HOWARD S. LEVIE

[as of 1 November 1987]

BACKGROUND AND EDUCATION

*Born December 19, 1907, at Wolverine, Michigan*

*Attended public schools in Baltimore, Maryland, and New York, N.Y.*

*A.B., Cornell University, 1928*

*University of Delaware Foreign Study Group, 1926-1927*

*University of Nancy, France - Diplome, Cours de  
Vacances*

*University of Paris, France - Diplome, Cours de  
Civilisation*

*Ecole Libre des Sciences Politiques, Paris, France*

*Phi Beta Kappa*

*J.D., Cornell Law School, 1930*

*Cornell Law Association Scholarship*

*Research Assistant to Professor Robert S. Stevens, New  
York State Commissioner of Uniform Laws*

*LL.M., The George Washington University Law School, 1957*

*Attender, Academy of International Law, The Hague,  
The Netherlands, 1955, 1957, 1958, 1960, etc.*

*Ford Fellowship, International Law Workshop, New York  
University, June 1964*

*Distinguished Alumnus Citation, DeWitt Clinton High School,  
New York, N.Y., 1973*

*Biographical record in Who's Who in America (44th ed.,  
1986-1987).*

PROFESSIONAL EXPERIENCE

CIVILIAN

*Law Clerk, 1930-1931*

*Admitted to the Bar of the State of New York, 1931*

*Admitted to the Bar of the State of Missouri, 1966*

*Also admitted to the Bars of:*

*The Supreme Court of the United States, 1947*

*The United States Court of Appeals for the  
District of Columbia, 1949*

*The United States Court of Military Appeals, 1953*

*The United States District Court for the Eastern  
District of New York, 1934*

*The United States District Court for the Southern  
District of New York, 1935*

*Practiced law in New York, N.Y., 1931-1942*

*Member of the Faculty, School of Law, Saint Louis University:*

*Associate Professor of Law, 1963-1965*

*Professor of Law, 1965-1977*

*Professor Emeritus of Law, 1977-*

*Member, Editorial Committee, Yearbook of the AAA, The Hague,  
The Netherlands, 1965-1975*

*International Law Consultant, United States Naval War College,  
Newport, R.I., 1965-1971*

*Charles H. Stockton Professor of International Law, United  
States Naval War College, Newport, R.I., 1971-1972*

*Lecturer, Naval Staff College, United States Naval War College,  
Newport, R.I., 1978-*

*Lowry Professor, United States Naval War College, Newport,  
R.I., 1982-1983*

*Instructor in Public International Law, Graduate Program, Salve  
Regina College, Newport, R.I., 1984-*

## PROFESSIONAL EXPERIENCE

### MILITARY

*Entered the U.S. Army as a volunteer, September 1942*

*Graduated from Officer Candidate School, Camp Davis, N.C., and  
commissioned a Second Lieutenant, Coast Artillery Corps, 1943*

*Served overseas during World War II in the Southwest Pacific  
Area, 1944-1945*

*Executive Officer, Requirements Division, Service, Supply, and  
Procurement, War Department General Staff, Washington, D.C.,  
1945-1947*

*Recorder, Joint Army-Navy Alaskan Board, Washington, D.C.,  
1946.*

*Commissioned as a Regular Army officer, The Judge Advocate  
General's Department, U.S. Army, 1946*

*Staff Officer, Legislative Branch, Claims Division, Office of The  
Judge Advocate General of the Army, Washington, D.C., 1947-1948*

*Member, Board of Review, Office of The Judge Advocate General  
of the Army, Washington, D.C., 1948-1949*

*Graduated from the Command and General Staff College, U.S.  
Army, Fort Leavenworth, Kansas, 1950*

*Chief, War Crimes Division, Office of the Command Staff Judge  
Advocate, Far East and United Nations Commands, Tokyo, Japan,  
1950-1953*

*Staff Officer, United Nations Command Armistice Delegation,  
Korean Armistice Negotiations, July 1951-June 1952*

*Staff Judge Advocate, Fort Leavenworth, Kansas, 1953-1954*

*Chief, International Affairs Division, Office of The Judge  
Advocate General of the Army, Washington, D.C., 1954-1958*

*Staff Judge Advocate, United States Army Southern European  
Task Force, Verona, Italy, 1958-1959*

*Legal Adviser, United States European Command, Paris, France,  
1959-1961*

*Staff Judge Advocate, Sixth United States Army, The Presidio of  
San Francisco, California, 1961-1963*

*Retired from the Army as a Colonel, JAGC, USA, 31 January 1963*

*Decorations:*

*Legion of Merit*

*Bronze Star Medal*

*Army Commendation Ribbon*



## PROFESSIONAL ORGANIZATIONS

*Army Bar Association*

*Section of International Law and Practice (former member of the Section Council and former Chairman of several Section Committees)*

*New York State Bar Association*

*Missouri Bar*

*Metropolitan Bar Association of St. Louis*

*American Society of International Law*

*Member of the Executive Council, 1970-1973*

*Member, Panel on Humanitarian Problems and International Law*

*Member, Panel on Reprisals in International Law*

*International Law Association*

*International Society for Military Law and the Law of War*

*Cornell Law Association*

*Retired Army Judge Advocates Association*

*Association of Attenders and Alumni of the Academy of International Law of The Hague, The Netherlands*

*Inter-American Bar Association*

*Federal Bar Association*

*St. Louis Council on World Affairs*  
*Vice President, 1968-1970*

*St. Louis Committee on Foreign Relations*

*Newport Council for International Visitors*  
*Program Director, 1987*

## PRINCIPAL PUBLICATIONS

### BOOKS

#### Authored:

Prisoners of War in International Armed Conflict (NWC Press, 59 International Law Studies, 1979) (Awarded the 1982 Triennial Ciardi Prize of the International Society of Military Law and the Law of War).

The Status of Gibraltar (Westview Press, 1983).

The Code of International Armed Conflict (2 vols., Oceana Publications, 1986).

#### Edited:

Documents on Prisoners of War (NWC Press, 60 International Law Studies, 1979).

Protection of War Victims (4 vols., Oceana Publications, 1979-1981; Supplement, 1985).

The Law of Non-International Armed Conflict (Martinus Nijhoff, 1987).

The Law of War and Neutrality: A Selective English-Language Bibliography (to be published by Oceana Publications in 1988).

### ARTICLES

"The Nature and Scope of the Armistice Agreement" in 50 Am. J. Int'l L. 880 (1956).

"Some Legal Problems Arising under the NATO Status of Forces Agreement and the Administrative Agreement with Japan" in 17 Fed. B.J. 620 (1957).

"The NATO Status of Forces Agreement: Legal Safeguards for American Servicemen" in 44 A.B.A.J. 322 (1958).

"NATO Status of Forces Agreement" in 13 Army Info. Dig., No. 3, at 12 (March 1958).

Avvocatura Generale Militare Reparto Legale dell'Esercito Americano" in Gazzettino Forense, Vol. VII, Nos. 5-6, at 21 (Padova, Italy, May-June 1959).

"Prisoners of War and the Protecting Power" in 55 Am. J. Int'l L. 374 (1961).

- "Penal Sanctions for Maltreatment of Prisoners of War" in 56 Am. J. Int'l L. 433 (1962).
- "Sidelights on the Korean Armistice Negotiations" in 48 A.B.A.J. 730 (1962); revised and reprinted in 38 Saint Louis University Magazine 1 (March 1965).
- "The Employment of Prisoners of War" in 57 Am. J. Int'l L. 318 (1963); reprinted in 23 Mil. L. Rev. 41 (1964).
- "Forces for Compliance with the Law of War: Comments" in 1964 Proc. Am. Soc. Int'l L. 92.
- "Sequel to Sabbatini" in 59 Am. J. Int'l L. 366 (1965).
- "War Crimes" in the Encyclopaedia Britannica (1965).
- "The Legal Basis in International Law for the United States Military Presence in Vietnam" in XII St. Louis Bar J., No. 4, at 21 (Summer 1966).
- "Some Constitutional Aspects of Selected Regional Organizations: A Comparative Study" in 5 Col. J. Trans. L. 14 (1966).
- "A Ready Reference Bibliography on Legal Problems of International Trade" (with William E. Halpin) in 23 J. Mo. Bar 374 (1967).
- "Maltreatment of Prisoners of War in Vietnam" in 48 B.U.L. Rev. 323 (1968); reprinted in 2 Falk (ed.), The Vietnam War and International Law 361 (1969).
- "Final Settlement of the Pious Fund Case" in 63 Am. J. Int'l L. 791 (1969).
- "Prisoners of War in Vietnam" in the Encyclopaedia Britannica (1970).
- "Some Major Inadequacies in the Existing Law Relating to the Protection of Individuals During Armed Conflict" (working Paper for the XIVth Hammarskjold Forum, Carey (ed.), When Battle Rages, How Can Law Protect? (1971)).
- "Procedures for the Protection of Prisoners of War in Viet-Nam: A Four-Way Problem" in 1971 Proc. Am. Soc. Int'l Law 209.
- "Civilian Sanctuaries: An Impractical Proposal" in 1 Israel Ybk on Human Rights 335 (1971)
- "Mine Warfare and International Law" in Naval War College rev. (April 1972, at 27); reprinted in Lillich & Moore (ed.) The Use of Force, Human Rights and General International Legal Issues, 62 International Law Studies 271 (1980).

- "Legal Aspects of the Continued Detention of the Pakistani Prisoners of War by India" in 67 Am. J. Int'l L. 512 (1973).
- "International Law Aspects of Repatriation of Prisoners of War During Hostilities: A Reply" in 67 Am. J. Int'l L. 693 (1973); reprinted in 4 Falk (ed.), The Vietnam War and International Law 340 (1976).
- "The Indo-Pakistani Agreement of August 28, 1973" in 68 Am. J. Int'l L. 95 (1974).
- "Compliance by States with the 1949 Geneva Prisoner of War Convention" in *The Army Lawyer*, June 1974, at 1.
- "War Crimes" in the Encyclopaedia Britannica (1974).
- "Weapons of Warfare" in Trooboff (ed.), Law and Responsibility in Warfare 153 (1975).
- "Remarks to the Lieber Group on the Laws of War" in 1980 Proc. Am. Soc. Int'l Law 148.
- "Combat Restraints" in *Naval War College Rev.* (Winter 1977, at 61); reprinted in Lillich & Moore (eds.), The Use of Force, Human Rights and General International Legal Issues, 62 International Law Studies 201 (1980).
- "Humanitarian Restrictions on Chemical and Biological Weapons" in 13 U. Tol. L. Rev. 1192 (1982).
- "Teaching Humanitarian Law in Universities and Law Schools" in 31 Am. U.L. Rev. 1005 (1982).
- "Some Recent Developments in the Law of War" in 25 German Ybk Int'l L. 252 (1982).
- "Los Prisioneros de Guerra y El Protocolo I de 1977" in 51 Rev. Jur. U. Porto Rico. 249 (1982).
- "The Falklands Crisis and the Laws of War" in Coll & Arend (eds.), The Falklands War: Lessons for Strategy, Diplomacy and International Law 64 (1985).
- "Recent Developments in the Humanitarian Law of War" 4 St. Louis U. Public Law Forum 369 (1985).
- "Pros and Cons of the 1977 Protocol I" in 19 Akron L. Rev. 537 (1986).
- "Criminality in the Law of War" in 1 Bassiouni (ed.), International Criminal Law 233 (1986).
- "Some Comments on Professor D'Amato's 'Paradox'" in 80 Am. J. Int'l L. 608 (1986).

"British Rule in Gibraltar" in Book of Days - 1987, at 445 (1987).

"Gibraltar" in Encyclopedia of Public International Law (1987).

"Commentary on the 1907 Hague Convention VIII Relative to the Laying of Automatic Submarine Contact Mines" (to be published in Ronzitti, ed., Modernizing the Law of War at Sea).

"Means and Methods of Combat at Sea" (to be published in the Syracuse University J. Int'l L. & Com.).

*This is the oral history of Colonel Howard S. Levie, U.S. Army Retired. We are in Newport, Rhode Island on a cold January morning (14 January 1988).*

*Q. Sir, we would like to begin, if we could, with your early life; where you were born, where you grew up, details of that nature.*

*A. I was born in Wolverine, Michigan which is in the top part of the lower peninsula, up near the straits. I lived there until I was about 5 years old. Then my family moved to Baltimore, Maryland. I went to school in Baltimore for a few years, and in 1919 we moved to New York. Thereafter, New York was my home.*

*Q. Where did your parents come from? What did they do in Michigan?*

*A. My father came from Riga, Latvia in about 1890. He eventually opened a store in Wolverine, which was a lumbering town. At the time we moved to Baltimore, he had owned the store for about 8 or 10 years. My mother was born in Travers City, Michigan, which is about 50 miles from Wolverine.*

*Q. What did your father do?*

*A. He owned a general store - clothing, shoes, that sort of thing. There were no specialty shops in those days. When he moved to Baltimore, he became sales manager of the Pompeii Olive Oil Corporation.*

*Q. Did you ever talk to him about why he immigrated from Latvia?*

*A. Yes, but it's rather vague. I think my parents didn't like the Russians. He went to a gymnasium and spoke German. I don't know whether he even spoke Russian. I never heard him speak Russian. I heard him speak German. As a matter of fact, he*

*spoke perfect English, with no accent whatsoever, but he still counted in German.*

*Q. How about your Mother? Where did her family come from?*

*A. I have no idea. But, they all lived in the United States - her parents, my grandparents. I don't know where my great grandparents came from.*

*Q. Did you have any brothers or sisters?*

*A. I have one older brother. He's three years older than I am. He's still alive. He practiced law in New York until he retired about a year ago.*

*Q. Do you have any memories of Michigan prior to moving to Baltimore?*

*A. Very, very few. My brother always says, "You were too young. You wouldn't remember that."*

*Q. You said your father worked for an olive oil company when you moved to Baltimore. Do you have any recollection about Baltimore?*

*A. Oh, yes, definitely. I went to public school for five years there. I remember we lived in two houses. We lived in a rented house for a year or so, then my father bought a house on the other side of Baltimore. I remember all of that very vividly.*

*Q. How old were you when you left Baltimore?*

*A. I was in the sixth grade, so I must have been about 11 or 12.*

Q. What caused your family to move to New York?

A. The olive oil corporation moved its headquarters to New York. That was Pompeii Olive Oil. It's now owned by Van Kamp, I think.

Q. So you would have moved to New York around 1919. What was New York like at that time?

A. Well, it was quite different from what it is today. I was about 11 or 12 years old and I went to a local public school for one semester. Then I went to the first Junior High School in the United States - Speyer Experimental Junior High School. It was supervised by Columbia Teachers College. I lived on 180th Street and Broadway, which is Washington Heights, and the school was down at about 125th Street. I had to go in the subway by myself everyday. Being 12 years old and having just moved to New York, it was an experience. When these kids today say, "The bus doesn't come right to my house. I have to go down to the corner," it gets me a little annoyed.

Q. Did you say that that part of New York was referred to, or used to be called "Hell's Kitchen?"

A. That was where I went to high school. Dewitt Clinton High School was located at 59th Street and 10th Avenue. That was the center of Hell's Kitchen.

Q. Why was it called Hell's Kitchen?

A. Because it was just that--it was a rough area. It was an area you wouldn't go to at night. But in daytime, there were 10,000 kids in my high school, so there were enough there so that you could be fairly safe in the daytime.



Q. Were there a lot of immigrants? Is that what made it kind of a tough neighborhood?

A. No. It was not a residential neighborhood at all. Oh, there were people that lived there, but it was not a heavy residential area. Eventually, they moved the high school out of there to the Bronx, and it became another high school. Then I think CBS bought it and it was a studio for many years. I don't know if it's even there anymore. I don't visit it. I have no good recollections of that area.

Q. You were named the 1973 Distinguished Alumnus from DeWitt Clinton High School. Could you tell us about that?

A. They have a very active alumni association. The school up in the Bronx is practically 100% black and hispanic now. They have maybe 2 or 3% white students. Because of the problems--these people are poor also--they have a very active alumni association which raises money to provide scholarships for these kids to go to college when they get out of Clinton. That organization is very active. It publishes a newsletter about 3 or 4 times a year and it has a banquet once a year. They contacted me and asked me to send them my biography. I suppose somehow or another they had heard about me. Then they wrote me and said that if I was going to be in New York at the time of the banquet, they would like to present me with an award. So, I was in New York visiting my brother and his wife, and I attended the banquet and received the award. They award about 3 distinguished graduates every year.

Q. Do you know of any other individuals who are graduates of that high school?

- A. Oh, yes. They mention it in every issue, but I can't remember the names now. In my era, I would say that the most famous person was a black poet, whose name I can't remember now, but who is a very famous black poet. He died when he was in his late 20's, and still had done enough work to become famous. My brother graduated two years ahead of me and he meets his classmates all the time. He says that about 20 of his classmates became judges.
- Q. You were saying that you went to Speyer Experimental Junior High School which was the first junior high school in the United States?
- A. Yes. That's when they instituted the idea of junior high schools. That's why it was called "Experimental." You entered it in the 7th grade and you stayed there for two years. When you went from there to high school, you went into your second year of high school. So you did three years in two.
- Q. What was the background behind the development of this school?
- A. Columbia Teachers College had the idea, I guess, and thought that it could expedite some students through public school and high school. They experimented with it. I think it went out of existence after about 10 years, because it was privately funded. Although it was a part of the New York City School system, because of the additional expenses of the way that it was run, it had to be funded outside of the City funds. But it was quite an insitution. In the 7th grade, we started studying algebra, and french. Now, they begin teaching languages in the first grade. But in those days, no languages were taught until you went to high school.

*Q. What year did you graduate from high school?*

*A. 1924.*

*Q. Do you have any recollection of WWI as you grew up in New York?*

*A. My only recollection of WWI was that in 1918, when the war was still going on, my father went back to Michigan to check on some business that I think was connected with the store he had sold. He took me with him and left me in Detroit while he went up to Wolverine. My grandmother lived in Detroit. I can remember there was a boulevard there with a wide grass area in the center, and I practiced throwing hand grenades. That's my only recollection of WWI.*

*Q. What did you decide to do after you graduated from high school? What were your plans?*

*A. In those days, it was much easier to go to college. You didn't have to apply to half a dozen. I decided to go to Cornell. My mother wanted me to go to Michigan because she was a Michigander. But, it was too far away and I figured I wouldn't get home more than once or twice a year. Whereas, at Ithaca, I could occasionally get a ride to come home for Thanksgiving, or something like that. So, I decided I wanted to go to Cornell. I applied to Cornell, the only place I applied to, and I was accepted.*

*Q. Was Cornell a private school?*

*A. Cornell is a private school, yes. I shouldn't say that completely. It is a land grant college. It has some agriculture courses which are financed by the State. It used to have a forestry school, but that has moved to Syracuse. It*

has a veterinary school which is run by the State. But the arts college, law, and engineering, those are all private. It's an unusual mixture.

Q. When you entered college, did you have any idea of what you wanted to do with your life?

A. Oh, yes. I knew I was going to study law. That had been my desire all along.

Q. Did your desire to study law have anything to do with you picking Cornell?

A. No, at that time I didn't intend to go to Cornell Law School. I had no ideas about where I would go to law school. But I wanted to get the AB degree there. I thought it was an excellent college for the undergraduate degree. At that time, they had a combined six-year course. In your fourth year, you went into your first year of law school, and that counted as your fourth year of arts college. I did that. Most of my classmates from Cornell were doing the same thing--taking the fourth year combined. At the end of the year, a great many would then transfer. A lot of them would transfer to Harvard. There was no problem getting into Harvard Law School. You just sent your application and you became a second year student. I decided that if I stayed at Cornell, I would have professors who were knowledgeable in certain areas and I would have a professor in a comparatively small class. If I transferred to Harvard, I would be in a class of several hundred and I might have a research assistant teaching the class, even though they had a nationally known professor teaching the class. I would say that about 25% of my classmates moved to Harvard. I stayed at Cornell with the other 75%.

Q. If you went to Harvard after your third year, would you get your undergraduate degree from Cornell?

A. No. You had to be at Cornell for the year before they could give out the degree.

Q. You said you had wanted to be an attorney for a long time. Do you recall why you wanted to enter the legal profession?

A. Nope. I just know that I never thought of being anything but a lawyer.

Q. What was your undergraduate major at Cornell?

A. My original major was political science. But when I went to Europe in my third year and studied in France, Cornell considered my major had become languages. Although, while I was in France, of course, we concentrated on French for 3 or 4 months. But after that, when I went to Paris, I was taking only political science courses, but in French. So they considered I was studying French and not political science.

Q. Do you recall your first couple of years in college? What courses did you have to take?

A. All I know is that we had six areas and you had to take six hours in five of the 6 areas. I hated sciences and I hated math, but I hated math more than science so I eliminated math. I took chemistry and physiology, I think, for my six hours of sciences. Other than that you took english, language, history, and I don't recall what other courses.

Q. Cornell is a large university now, how large were your classes then?

A. We had 4,000 men and 1,000 women in the whole university. Now I think there's over 20,000. It would depend on what classes you took. I took a course in English Literature which was a lecture course, and it had about 200 students in it. But most of my classes would have 15 or 20 students in them. In political science classes, I had 15 or 20 students, that's all. And you'd have professors teaching the course--not an assistant, or a research assistant, or anything like that.

Q. Did you get to be friendly with most of your peers at Cornell?

A. Oh, yes.

Q. Were there any interesting people you remember?

A. Well, some of my classmates have become millionaires. One of my classmates, who was a classmate both in college and in law school, was Joseph Weintraub, who became the Chief Justice of the Supreme Court of New Jersey. He succeeded Vanderbilt when Vanderbilt died. Another one of my classmates became surrogate in Binghamton. Two of my classmates who were in high school with me, I have one recollection of them. We always put on a big show at the end of the senior year. We put on an operetta called "The Chimes of Normandy." One of these two fellows sang bass. Can you imagine a high school student singing bass? He went to Cornell and then went to law school, and he practices law in New York. The two of them represent exhibitions. They represent--I've forgotten what they call that building on Columbus Circle that they're going to tear down and build a bigger one, but it's a place where they have exhibitions. It's a big open area for floor shows, and they represent people like that. It's apparently a very limited area of the law.

Q. Isn't the City of New York going to tear down Madison Square Garden in the next couple of years?

A. Very probably, because it's inadequate for New York. When I lived on Washington Heights and went to Clinton, I would take the Fifth Avenue bus down to Columbus Circle. There was a two story building there on one corner. They tore it down and built a ten-story bank building. They tore that down and built a thirty story building. Now I understand they're going to tear the thirty story building down and build a sixty story building. That's the way they do things in the United States. In Europe, when I went to Verona, the Italians had given us a caserme-a little enclave-with a wall around it. It dated back, I think, to maybe the 14th or 15th century. Well, our 2-1/2 ton trucks couldn't get through the gate. So we tore down some of the wall. The Italian government never got over it, because this was a historic wall and we had torn it down so the trucks could get in. But here, we don't think that way. We're beginning to, however. This house, for example, is in an historic district of Newport, Rhode Island. Every time we want to do anything to the exterior, we have to get permission. Without exception, every time, it's been turned down by the city.

Q. We saw a name on your house as we drove up. It was lived in by an individual by the name of John Crosby. Do you know who he was?

A. He was a greengrocer, apparently to the cottages. You know what the cottages are--the mansions of Newport. They are not cottages. He had his place up on Bellevue Avenue right in the center of where those mansions are.

Q. What is a greengrocer?

- A. *Produce. But, apparently he had very fine stuff because he catered to the wealthy. He lived down on Sherman Street. Sherman Street is only a block and a half long and dead ends here. He lived down near Spring Street. He bought this house in 1864. There must have been something here because the deed says the "land and the house thereon." I don't know what the house was, but he didn't move into it until 1868. So, we say that the house was built in 1868, although it was probably built a few years earlier.*
- Q. *You mention the cottages. When did the wealthy start building some of the fabulous mansions here in Newport?*
- A. *In the 1880's and 1890's. One or two of them date slightly after 1900, but most of them are built in the late 19th century.*
- Q. *You were saying earlier that while you were at Cornell, you went to France. Could you explain how that trip came about?*
- A. *There were very few of the programs that most colleges have today of sending students to Europe for a year. At that time, the leading one was the University of Delaware, strangely enough. They had a very active French Department, and they were the ones that conceived the idea and managed it. They sent brochures around to all the other universities to get students. One of my political science professors was a Canadian actually. When he left Cornell he went back to Canada and became Minister of Justice of one of the provinces, he called me in one day and told me about this program and asked if I'd be interested in going. They mentioned that students could attend the Free School of Political Science in Paris. I said it sounded very interesting and I would find out if my parents would approve it. They did. So, he approved the application, had the Dean approve it, sent it to Delaware, and Delaware accepted me. I went over*



with a group in 1926, and we went by ship. There were no airplanes then. As a matter of fact, while I was in Paris, Charles Lindbergh made the first flight across the Atlantic. He landed in Le Bourget, I think it was, in May of 1927. That was the end of my school year in June of 1927. But, there were about 40 students in the group from about 25 universities. My roommate and I both went from Cornell. We were the first ones to ever go from Cornell. After that, Cornell had somebody go overseas almost every year. But it was a completely new idea--the idea of the third college year in a foreign country. Now, as I say, practically every college has one of these programs. Some of them, I think Cornell, now has one in France, one in Spain, and probably in some other countries.

Q. You were talking about Lindbergh's flight. Were you aware that he was going to try his remarkable flight?

A. Oh, yes, we knew all about it. It was in the newspapers. Paris went wild when he arrived.

Q. Were you there, by any chance?

A. I wasn't at the airport, no. But I saw the processions and what happened in Paris.

Q. What was that like?

A. It was inconceivable to anybody that you could fly across the Atlantic. It was like a World Series winning team going down Fifth Avenue. It was just amazing, people didn't believe it.

Q. You said that you went to France. Did you speak French prior to going there?

A. *I had studied French for three years in high school, and I'd studied for a year in college, so I had a basic knowledge of the language. Actually, frankly, we went over on a French ship and I couldn't read the menu. We went to the University in Nancy for four months and studied French from about eight in the morning till about five or six in the afternoon. So, by the time we left Nancy, we were thinking in French.*

Q. *Where did you go from Nancy?*

A. *We went to Paris, to the Sorbonne, which is the University of Paris. Everyone had to go there and we took what was called the Cours de Civilisation, the civilization courses. You studied French architecture, French art, French culture, in general. Then I took courses at the Ecole Libre des Sciences Politiques, which were the political science courses.*

Q. *What was your opinion of French education as compared to the political science courses you had taken at Cornell?*

A. *At this school, they were much more in depth. Most of the people who went there were people from all over the world studying to enter their foreign services. Whereas, in an American college, you might skim over the particular subject, here you'd spend three semester hours on something that would be covered in a couple of hours of one day in a normal political science course.*

Q. *You were saying that most of the students there were planning on going into the foreign services of different countries. Were there any individuals who were there studying with you that later went on to be key figures in their countries?*

A. I don't know. I know that one American in my group who had graduated from Kenyon in Ohio, was trying to enter the United States foreign service, and that is why he was there. He later did become an Ambassador. So, he had a successful career. He married one of the girls that he met in that group. I didn't envy him. His first assignment was Sumatra. I didn't think that was a place that I wanted to spend several years in.

Q. You mentioned yesterday that while you were in Paris, Gertrude Stein, Ernest Hemingway, and other American authors also lived there. Do you recall seeing them?

A. Oh, yes. I lived in Montparnasse. I lived about four or five blocks from the Sorbonne. About a block or two from where I lived was the famous corner where they had the four bars--the Dome, the Select, I don't remember what the other names were--the Dome was my favorite. We'd go over there for a beer in the afternoon, and there were all these groups of expatriate Americans. You didn't know who Hemingway was. He was nobody of importance. You just knew that there were some writers sitting over there drinking beer and arguing. Gertrude Stein I don't think I ever saw. But I'm sure that Hemingway and the others were in the Dome or the Select.

Q. Are the Dome and Select still in Paris, do you know?

A. Yes, as far as I know. The last time I was there which was 15 years ago--no, maybe 8 or 10 years ago they were still there.

Q. You also mentioned that you had several instructors who later became involved with the Vichy government.

A. Yes. The best instructor I had at the School of Political Science was a man whose name was Joseph-Bartoleme. He became

*the Minister of Justice of the Vichy government. I don't know, but I've heard rumors that he was tried for collaboration. I've never been able to establish that. Another one of my professors who was good, but not as good as Joseph-Bartoleme, was Pierre Laval, who became Petain's prime minister. He was tried and executed, as I recall, for collaboration with the Germans.*

*Q. As a young American in Paris during what was called the "Roaring Twenties" for want of a better word, can you tell us about the attitude of the French toward their government, toward themselves, in light of what happened to them 15 or 16 years later during the German invasion?*

*A. Well, the governments came and went, just as they do in Italy now. But, they were very pro-American at that time. I lived with a professor at the Sorbonne who taught Esthetics--a form of art. That was his specialty. I enjoyed it very much. I was a member of the family. I ate with them. They even had a tendency to treat me as a child and say, "Now, be in early tonight." That sort of thing. Incidentally, he was the president of the League for the Rights of Men, which was an organization that was created at the time of the Dreyfus case. The Nazis hated him and the League so much, that when they entered Paris he left. They caught him on a road outside of Paris and killed him. There is now a street, a square in Paris named after him, Victor Basch.*

*Q. Was he Jewish?*

*A. No. But he was so liberal and in favor of freedom of all kinds. He had a reputation and the Gestapo knew all about him and had him on their list when they entered Paris.*

*Q. What were your recollections of the Dreyfus case?*

A. *The Dreyfus case was in the 1890's. I had no recollection of it, excepting that Victor Basch would have guests to dinner and many of them were people who had been involved in the Dreyfus case. I can't remember her name, but this woman's husband was a minister in the French cabinet. Some newspaper wrote an article which was a scathing denunciation of her husband, and it incensed her so much that she went to the newspaper office and shot and killed the writer. She was tried and acquitted. I sat next to her at dinner one night.*

Q. *You were in Paris a few years after WWI. Could you observe the decimation that the French male population had suffered?*

A. *The most vivid recollection I have is that we would take trips all over France to become acquainted with other parts of the country. We went to Verdun and we saw what they called the Trenches des Bayonettes. Are you familiar with that? Well, you could still smell the rotting bodies under the Trenches.*

Q. *You should probably explain what that was for those that might not be aware of it.*

A. *WWI was trench warfare. This was a trench with French poilus, the doughboys, waiting to make an attack or to be attacked. Shells landed and threw up dirt and covered the men, buried them alive. They all died there. Their rifles with the bayonets were pointing up. I guess they were ready for an attack or to attack. The bayonets are the only part that are above the earth. So, as I say, this was in 1926, which was 8 or 9 years after the event. But you could still smell human bodies there.*

*I also went through the underground area that they had in the defense of Verdun. The thing that I was reminded of was when*

*I went through Corregidor after WWII, you have the same feeling of claustrophobia and of death surrounding you there.*

*Q. Do you have any observations about Verdun, in light of your subsequent interest in international law?*

*A. WWI should never had happened, but it did. Millions of men were killed. I don't know how many were killed on both sides at Verdun in defense of--well, I suppose it was important. It wasn't just in the defense of a few miles of territory because it would have opened up France for the German Army if they had gotten through there. But, it was a lot of senseless killing because one side would attack and they'd have 100,000 casualties, and then other side would attack and they'd have 100,000 casualties.*

*Q. You were talking earlier about the League for the Rights of Men. What was that?*

*A. That was created to support the Dreyfus appeals. They were responsible, really I think, for getting the second trial, which ended in a fiasco also. I think they were also largely responsible for the eventual vindication of Dreyfus. Then they just continued. I suppose you might say it was a nonlegal ACLU.*

*Q. This Professor Basch that you lived with, he was the President of this League?*

*A. At the time that I was there, he was the President. As I say of the dinners that they would have from time to time, there were other people that were active in it, including the man who had been President at the time that the Dreyfus case was hot, when it was founded.*

- Q. Were the communists active in Paris in the mid 1920's?
- A. Not really. I suppose underground there were things going on, but it was not evident. They had enough problems of their own.
- Q. You returned to the United States in '27?
- A. I came back in '27 and went back to Cornell and entered the law school at that time. One thing that I regretted was that I had a program all set up for my senior year. I was going to take a course in Greek coins and similar courses. I was really going to get educated and have a practical education, which I didn't have with the result that in international law you have so many legal terms that are in Latin and I always have to go to my dictionary for it. My dictionary also frustrates me because I can never find the right term. I recently bought a book. I saw it advertised some place and I bought it. I have found more legal terms in this little paperback than in my big, fat legal dictionary. It is called, Amo, Amas, Amat, and More. I love, thou lovest, he loves, and more. It's amusing, too. The book tells you the pronunciation, the translation, and then it has a paragraph about it, which is usually very amusing. But the important thing to me was that the words are there. I can find out what a lot of these things mean.
- Q. So, you started law school in the Fall of '27? What was law school like?
- A. The casebook system had taken over. It was only about 5 or 10 years old. Langdell at Harvard had started it. We used the casebook system entirely. An unusual thing for people today to be told is that we had no course in international law. That was taught in the department of political science in the arts college. Eventually, when they did have a course in

international law in Cornell Law School, the professor from the political science department taught it. He was not a lawyer, but he taught international law in the law school. We had no course in taxation, if you can believe it. You know, the income tax Constitutional Amendment was only passed in 1916, I think. It hadn't become that complicated. There were courses in taxation, but different types of taxation, not in income tax the way most of it is now.

Q. I think most law students would say their first year was the hardest. Do you recall any courses you took or professors you had in your first year?

A. Yes. Nowadays, at least when I taught in law school, we had contracts and torts, for example, three hours one semester and two another. You take torts 2 and 3, and contracts for 3 and 2. My first year, we took six hours of contracts the first semester, six hours of torts the second semester. My torts professor, may his soul rest in peace, gave the course at 8:00 in the morning, Monday thru Saturday. At 9:00 he was through for the day. That was the only thing he taught. Then he could go home and work on his roses. We took probably the same courses as today. Some have different names now. For example, commercial transactions we called sales, negotiable instruments. They were two hour courses or three hour courses. Now they're consolidated, which is logical since they are so interrelated. I think those courses were second year courses. Property was the bane of everybody's existence and still is, particularly real property. We took a three hour course in real property and had a three hour course in personal property. Constitutional law and criminal law were second year courses. I can't remember what other courses I took in the first year. But then, as you say, if you got through that you knew you would make it. A lot of people didn't get through because that six hours of contracts



*and six hours of torts was a killer. We had no courses, for example, in products liability, which is a big course now. As a matter of fact, manufacturers weren't liable at that time. They were too remote from the purchaser or the retail store.*

*Q. Did your professors use the Socratic method of teaching?*

*A. Yes.*

*Q. How did you feel about that?*

*A. Well, it was a change from sitting in the lecture room and listening to lectures. Even in the small classes in the arts college, there was a good deal of lecturing done there. When I started teaching at Salve Regina here, I had to do lecturing and it was quite a change. I had used the Socratic method in teaching in law school. But I got in the Socratic method here, too. I could not see myself lecturing for three or four hours a week, so I would usually lecture for 10 or 15 minutes and then get into the Socratic method and have the students do the work.*

*Q. Do you like the Socratic method of teaching?*

*A. Yes. I think in law--I'm not sure it would be good in every course. In medicine I don't think it would be any good. But in law, where you're trying to teach the student to reason, it is important.*

*Q. You were talking about making it through the six hours in contracts and torts. Was there a high failure rate or a lot of people who gave up?*

*A. Yes, I would say 10-15% of the class busted out in the first year. You see, you had to have a C average. If you got a D in*

*contracts and torts, it was pretty hard to get a C average. You had to get some A's and B's, and the man who got a D in contracts and torts didn't get A's and B's in the other courses.*

*Q. How many people were in your first year law school class?*

*A. About 100. Maybe 105 or 110. After the first year, I guess there were about 70.*

*Q. But a large group of people transferred to Harvard?*

*A. Yes, and to other law schools. Most of them went to Harvard, though.*

*Q. Your first year of law school was really your fourth year of arts college?*

*A. Yes. At the end of that first year in law school, I got my AB. I get amused about law courses. I get several publications and they talk about something very novel: they're going to combine the fourth year of undergraduate college with the first year of law school. They discontinued that procedure 25 or 30 years ago. Now they're talking about going back to it.*

*Q. Was the attraction of Harvard back then still like it is today?*

*A. Yes. Harvard, and maybe Yale, too, their law schools attracted people from a lot of different universities. Whereas, the other law schools--in my class, I'd say that of the 70 students who went on, 50 of them were Cornell undergraduates and maybe only 15 or 20 from other universities.*

*Q. Do you recall any of the professors that you had in law school?*

A. Oh, yes. In my senior year, I became a research assistant for Professor Stevens, who was the uniform law commissioner for the State of New York. At that time, they had drafted a uniform law on extradition. He had me annotate it for the New York legislature to see what changes would be made in New York law. I annotated it and I wrote an article for some magazine-I've forgotten the name of the magazine-and Lehman, who was then the Lt. Governor, made a speech some place lauding the uniform extradition law. The legislature passed it and Franklin D. Roosevelt, who was then the governor, vetoed it. He said, "It's much simpler now. All I do is call up another governor and he sends the person to me. This would make it too complicated." Of course, that bit of calling up the other governor was subject to judicial review, but apparently Roosevelt hadn't had any trouble with it, so he thought it was simpler to continue the way they did. Stevens later became the Dean of the law school and he was there for 30 or 40 years. When I was there, the Dean was Charles Kendall Burdick. He was a constitutional law expert. His father had been a constitutional law expert at, I think, the University of Kansas. In my second year, I took constitutional law and I also took criminal law. The professor of criminal law was on a sabbatical that year, so Burdick taught it. I had expected that criminal law would be a very exciting course. It was the most boring course I took in law school. I ascribe that to the fact that Burdick taught it.

Q. Did students in law school clerk for law firms?

A. No. That reminds me of a sad thing that happened to me. The New York Court of Appeals had a rule that if you had an AB degree, you could take the character committee examination. You could take the bar examination as soon as you finished law school. If you didn't have an AB degree--in those days, you know, you could clerk in a law office and then take a bar exam-

-if you were that kind, then you had to clerk for six months if for any reason you didn't have an undergraduate degree. The year that I got out of law school they changed the rule. If you had an AB degree, you had to clerk for six months; if you didn't have an AB degree, you had to clerk for a year. The result was that I took the bar and passed it in June 1930 when I got out of law school, but I then had to clerk for six months before I could start collecting my affidavits for the character committee. So the result was that I was not admitted to the bar until June 1931. It took a year. The following year the bar discontinued that system. I was in the only class that had to do that. The lawyers took advantage of it. I was paid as a clerk, \$5.00 a week, which was not enough for my car fare and lunch. It was almost enough in those days, \$5.00 a week, but not quite. Many times there has been talk about compulsory clerkships. I am opposed to it. They have it up in Canada. They found in Canada, also, that the law firms take advantage of this procedure and underpay you. They get your services for nothing. After that experience, when a student would come up to me and say, "Professor, I'd like to talk to you. I've been offered a job in Chicago with such-and-such a firm, but they only offered me \$25,000 a year. Do you think I ought to take it?" I feel like saying, "Get out of here." Now I read that New York law firms and the other big firms around the country are paying up to \$60-65,000 for a student just out of law school. It's ridiculous because he's a liability to them.

- Q. You graduated just after the stock market crashed. What was the job market for a young lawyer back then?
- A. Very, very bad. Between the clerkship requirement and the 1929 Black Friday, it was very, very difficult to get a job. Particularly because we all had to clerk in order to be admitted to the bar. So, we had to get clerkships. It was not easy to

get clerkships. The law firms were retrenching, they weren't hiring people. Of course, as I say, they took advantage of it and underpaid you because they knew you needed it. You had to have it in order to be admitted. So they got you for next to nothing for a year before we were admitted to the bar.

Q. What are your recollections of the stock market crash and the Depression in New York in the late '20's, early '30's?

A. The stock market didn't affect my family so much. My father was out of the stock market. But what had affected us was the Florida land boom. New Yorkers invested in Florida land that turned out to be under water. My father was one of the people who had done that.

Q. Could you explain that? How did people get cheated in the Florida land boom?

A. There are a lot of scams of the same kind nowadays. I get a letter offering me land in someplace in Arizona that is probably at a 90° slope. But one man would act as the agent for a number of people and he'd collect \$50-100,000 and invest it in Florida land that was advertised. Nobody would go down to look at the land because they planned to hold it for three or four months then sell it for double the price because prices were going up all the time. Then you go down there--eventually someone would go down there--and find out that the ocean had covered the land, or the Everglades had covered it, or something like that.

Q. Were people actually getting deeds to property?

A. Yes.

Q. What caused the collapse of the Florida land boom?

- A. *Two things, I suppose. The discovery that a lot of it was under water, and secondly, the market crash meant that people were not going to retire to Florida. They weren't going to have the money to retire to Florida. So, Florida land wasn't at such a demand as it had been.*
- Q. *You compressed one year of junior high school and another year of college, so you were a fairly young man when you were admitted to the bar, weren't you?*
- A. *Well, you had to be 21. I was, let's see, I was 24 by that time. I was 20 when I got out of college, 23 when I got out of law school, and 24 when I was admitted to the bar.*
- Q. *You did get picked up by a firm, though, didn't you?*
- A. *At that time, I made an arrangement with a lawyer in which I did work for him and I had my own practice. That was in '31. In '32 I was at a convention in Cincinnati and on New Year's Eve I went into the hospital and I was in the hospital for four months with pneumonia, pericarditis, pleurisy; whatever you could have, I had. Then I was out for another four months after I got back to New York. The result was, I had no practice when I returned because I had no backup to take care of my clients. At that time, I went with the firm of White and Goldman that represented the Prudential Insurance Company and a couple of other insurance companies. That was in the end of 1933.*
- Q. *What was it like in the beginning? Like you say, the market had crashed. Was there really that much of a demand for legal services?*

A. *I had a number of clients of people who had known my family, and I had a number of clients that had walked in. I was making a living at that point. Of course, you draw a will and you got \$25 for it. That was big money. That made the week a success. It didn't cost that much to live. My wife and I were talking about it recently. We had a dog and we bought a pound of shin beef for the dog and it lasted three days, and the pound of shin beef cost 25 cents. So, it cost 8 cents a day for the dog. Now it costs about 40 cents a day to feed each of our cats.*

Q. *You had a general law practice?*

A. *Yes. I'd take anybody that came in on anything. I did copyright work. I'd never heard of copyrighting before. I had taken no course in law school on it. They had no courses on patents or copyrights then. But I had a client that had a lot of products and would invent names for each product and I'd copyright it. One time I had a dispute on it. Somebody claimed they had something that covered my client's work. I went down to Washington and argued before the Patent Office. I didn't know what I was doing, but I did it.*

Q. *What was the attitude of the country and the people in New York City during this period of time, especially with Roosevelt and the New Deal coming along?*

A. *When Roosevelt took office and closed the banks, I was in the hospital in Cincinnati. My father was paying my bills. There wasn't any insurance in those days. His checks bounced because the banks were closed. That was quite a thing. Of course, that lasted only a short while. Then the banks were reopened and we were able to get a loan. But, I have vivid recollections of people selling apples on every corner. You'd have a man who had polished these apples so hard that you could see your face in*

*the apple. He had nothing to do but just stand there and wait for somebody to buy an apple for a nickel. He made his living that way, and probably supported a family that way. These people were all over the city. I won't say at every corner, but a great many corners. People making a living selling apples at a nickel apiece.*

*Q. Do you recall soup lines and soup kitchens?*

*A. No. I had no experience with it. There weren't any in the area where I either lived or had my office.*

*Q. Where were you living in New York at the time?*

*A. I was living with my brother in the Beaux Arts Apartments on East 43rd Street until he got married. Then a mutual friend of ours took his place.*

*Q. Your brother was also practicing law at the time?*

*A. Yes, but in a different firm. My brother's firm represented West Publishing Company. You knew how bad things were for the legal profession by the number of books he repossessed.*

*Q. Were lawyers having problems making a living then?*

*A. Yeah. Number one, you couldn't charge a client very much. Number two, you were lucky if a client paid you, because they didn't have the money.*

*Q. Did they have such things as contingency fees back then in the legal profession?*



A. In the courts, in negligence cases, yes. There was a lot of argument about it. You know, in England they're prohibited, and there was talk of prohibiting them here. I think they had a rule of court in New York as to how much you could receive as a contingency fee. I think if it was up to \$1,000 you could have 50%; for \$5,000, 40%; over \$5,000, 25%. Something like that. I never had to worry about that. I never got a judgment the way they do now in the millions. You were lucky if you had a broken leg and a broken arm if you got \$5,000. That was a big verdict.

Q. You said you worked for a law firm that represented life insurance companies. Tell us about some of the practice there.

A. Well, in life insurance itself, there was very little litigation. The only litigation was if an individual died within the contestable period and then it was discovered that he made misrepresentations in the application. That was comparatively unusual. Most people lived the year or two of the contestable clause, so you didn't have much litigation on life insurance policies. You did have litigation on the total and permanent disability provisions because in those days, unlike today--today they have total and permanent disability provisions, but if you become totally and permanently disabled, all the insurance companies do is waive the premium. In those days, they also paid ten dollars a thousand monthly. So, if you had a \$100,000 policy, that meant that if you became totally and permanently disabled, you collected \$1,000 a month from the insurance company for the rest of your life or until they found that you were no longer disabled, although by definition you were supposed to be permanently disabled. Well, when the stock market crash occurred and a lot of people lost their businesses, as a collateral to that they became totally and permanently disabled. It was up to us, when the life insurance company

would investigate and determine that the man was not totally and permanently disabled, then if he brought suit the case would come to us and we'd have to defend it. You defended it by showing pictures of him playing with a 20 year old blonde, throwing a medicine ball that weighed about 50 pounds, when he claimed he had a heart condition and said he couldn't climb three steps. In many of the cases we had that sort of thing. We had motion pictures of men doing that.

Q. Did you hire detectives?

A. No, the insurance company had investigators who were really detectives. They were better than the average detective. Boy they found things. There was one case in particular, a man by the name of Kranz. They would give him the big cases. If a man had a million dollar policy and became totally and permanently disabled, Ed Kranz would get the case, and he would find something. No manufacturing of evidence. This was evidence of the man himself that he would find. He was amazing with what he was able to come up with. The part that we didn't like, but we had to take along with the other cases, was industrial insurance. Industrial insurance was insurance where you paid 25 cents a week, you were insured for a \$500 policy, and the agent would come around every week to collect the quarter or whatever it was. We had some insurance companies that didn't attach the application. So, if the man died the following month after he took the policy out, and many of them did, particularly in the ethnic areas--Italians, for example, they knew they were dying so they took out insurance policies. There was no medical examination. All a person had to do was make the representations. The application was not attached to the policy. So you had to prove that he was not in good health. The burden was on you to prove that he was not in good health at the time the policy was taken. Prudential issued industrial

policies in those days. I don't know whether they do anymore. But, Prudential attached the application so that for one year, the contestable period, you could prove misrepresentation. The insured would say, "I haven't seen a doctor for ten years," and you'd find out he'd been going to a doctor everyday for a month before the policy was issued. But even there, in those days, a lawyer would bring suit because he'd figure you'd settle the case maybe for \$25. It was cheaper than going to court. On \$25, he might get a \$10 fee. It was worth it to him in those days.

Q. What was the nature of most of those suits? The insurance company would deny coverage on the policy and the plaintiff would sue the insurance company?

A. Claiming that he was totally and permanently disabled.

Q. Were those decided by a judge or a jury back then?

A. The insured could ask for a jury. If they didn't, we didn't. The jury knew that the insurance companies have all sorts of money, so there'd always be a judgment against the insurance company. The plaintiff would usually ask for a jury. If he didn't, we didn't, so it would be tried before a judge.

Q. Did the juries during the Depression tend to be more sympathetic to the insured?

A. Oh, yeah. When we got a jury verdict, we'd celebrate it. Usually we had to win on appeal.

Q. Did you do anything besides insurance defense?

- A. *We would handle anything that came in. I'd say that 75-80% of our work was representing insurance companies. We were not employed by the insurance company. We were retained by them on a case-by-case basis. Prudential was the biggest company, but we represented several other companies.*
- Q. *You were working for an insurance company that was able to weather the storm. What was the mood among people when Roosevelt started all of his New Deal programs and plans that a lot of people questioned?*
- A. *Oh, I think Roosevelt's plans were supported. They were needed. I think they were what changed the mood of despair. I mean he had things like the CCC where unemployed people from the cities were taken out into the country and built roads, writers wrote histories of cities, and artists would decorate the post office and municipal buildings. That fed people. Of course, that's when the United States started to get into debt, too. But it was necessary to keep the country alive.*
- Q. *You mentioned something about the Judd-Snyder case? What case was that?*
- A. *That was a case where the wife, Mrs. Ruth Snyder, had her husband sign a couple of applications for insurance. He didn't know what he was signing. Prudential issued the insurance. Judd was her boyfriend. A month or two after that, Mrs. Snyder bludgeoned her husband to death with a window weight. Those big iron things. They claimed, I think, that a thief had done it. Judd didn't make any claims because he tried to stay out of it. But, Ruth Snyder claimed that she came home and found this situation. The district attorney and the police conceded the case. They were not investigating it. Then the claim was made against Prudential. Prudential started investigating, and they*

turned their case over to the district attorney. Judd and Ruth Snyder were tried and convicted of murder and she was--I don't know whether it was the first or last woman executed in the State of New York.

Q. Did you have any personal involvement in that case?

A. No. The case was just over when I went to the firm. But there were repercussions. It became a famous case primarily because of the fact that we defended it on the ground that he had not applied for the insurance and he didn't know what he was applying for. We were successful. Ruth Snyder had a daughter. Suit was brought against Prudential on behalf of the guardian of the daughter. The mother had been executed at that time. We defended on the ground that it was not his application, and we were successful. I think she had him fill out two applications for about \$25,000 each and he was probably making about \$3,000 a year. She was going to be much better off financially with him dead, as well as have her boyfriend.

Q. Were you single, or had you gotten married yet?

A. I was married in July 1934. When I went to work at this firm, I was not married. My wife and I were married secretly for about a year. That was a mistake because as soon as my firm found out I was married, they raised my pay. They'd have raised it a year earlier if I had told them.

Q. How did you meet your wife?

A. While I was in law school, there was a young fellow by the name of W. English Strunsky. His sister was married to Ira Gershwin. His family owned a hotel. His uncle and his mother owned a hotel in Belmar, New Jersey, and I clerked down there during the

summers between my first, second and third years in law school, and then the year after I graduated. As a matter of fact, I got a telephone call from my brother while I was down there working that I had passed the bar. We had three clerks. All three of us were from Cornell. We had an hourly arrangement, which meant you had quite a bit of time off. You could spend it on the beach, on a date, or whatever it might be. My wife was the friend of a girl who was the sister of a classmate of mine in public school and in Speyer Experimental Junior High School. His mother was divorced and he left high school in about the second or third year because he had to go to work. But we had remained friends. As a matter of fact, the last time I saw him was about 4 or 5 years ago. This girl got a date for me with Blanche, my wife, when she was down at one of the other beach areas. I've forgotten the name of the town that she was in, but there were hotels endlessly along the New Jersey beach. The towns were just like a megalopolis now. You didn't know whether you were in one town or the next because they were continuous. But, we had a date. My wife always refers to the fact that our date was in the rumble seat. Do you know what a rumble seat is?

Q. Yes, sir.

A. Our first date was in the rumble seat and her friend and her boyfriend were in the front. We were in the back. It was a roadster, but I don't know what make. I wasn't very much up on cars in those days. As a matter of fact, I learned to drive at the hotel in 1928 I guess it was. The hotel had a car and I had to take money to the bank and that sort of thing. I had never had a car or driven a car before then. I shouldn't say that. I guess in my freshman year at Cornell, five of us bought a car for fifty dollars, ten dollars apiece. Of the five, only one knew how to drive. We would drive down to Elmira, New York. Elmira had what was then called the Elmira Female Academy. We

use to go down and have dates in Elmira and come back about eleven or twelve at night. I would have to sit next to the driver, who became a judge in New Jersey also as a matter of fact, because the other three would be sound asleep in the back and if I didn't keep sticking pins in him, he'd be sound asleep at the wheel. I was the only one who could stay awake. Well, we had that car for about 2 or 3 months and something was wrong with it and we returned it to the used car dealer and he gave us our \$50 back.

Q. Do you remember what kind of car it was?

A. No. It was probably a Ford Model T. I never did learn how to drive that car.

Q. Why did you get secretly married?

A. I'm not sure anymore. There was no reason. My wife was an orphan. She had three brothers, but their parents were both dead. She was living with friends. I suppose it was because I didn't think we could afford to have her move out from her friends. Two couldn't live as cheaply as one.

Q. That must have been an interesting time. Prospects for the country were pretty bleak. But you went ahead and married anyway?

A. Yes. By '34 I guess we were beginning to see a little light. Roosevelt had been in office for two years or a year and a half. As a matter of fact, my wife then took an apartment, a one room studio apartment. It was a fourth floor walk-up. It was delightful. She had an unlisted phone. Apparently the telephone company sells lists of unlisted telephones. There was a place called Ryan's, or something like that. It was a

gambling joint across George Washington Bridge in New Jersey. New Jersey apparently allowed gambling at that time. We used to get ads from gambling places offering us \$50 worth of chips if we'd come over and gamble. We couldn't even afford to get across the bridge, let alone go over and gamble there.

Q. Was Atlantic City the hot spot on the Jersey coast then?

A. Oh, no. There was no gambling in Atlantic City in those days. When I was in Baltimore, we used to go to Wildwood, New Jersey. That was where the Baltimorians went. People from all over went to Atlantic City and the New Yorkers went to the North Jersey shore, which was Asbury Park and those towns. Belmar was about the third town from Asbury Park. That's where Blanche was staying, at a hotel in Asbury Park.

Q. You mentioned yesterday about your first experience flying in an airplane.

A. That was in the '30s. For one thing, you know when Roosevelt became president, he had a fight with the airlines. I don't recall what the reason was. But he took the mail carrying contracts away from the airlines and had the Air Corps fly the mail. They had a lot of accidents because it wasn't the kind of flying that they were accustomed to doing. But people didn't think of flying. I had to take a deposition in Boston and I went up to Boston by train. I took my deposition, and I was finished at about 2:00 in the afternoon. I had a reservation on a sleeper train to come back to New York from Boston, leaving Boston about 10:00 or 11:00 that night. I had nine hours and nothing to do. So I said, "Why am I staying around here? Why don't I take an airplane?" So I investigated and found I could take an airplane at about 4:00 or something like that. I bought a ticket and got on the airplane. I sat holding on to the seat,



expecting that I would never land, but at least I'd have the experience. We got to New York without an accident. But even so, we were not air flight oriented. When I went into the Army, and I got my orders for overseas, I had to report to California. It never occurred to me that I could fly there. In those days, I guess it would take seven or eight hours. I took a train that took five days to get to California. Actually, it took me six days because we missed our connection in Chicago and I had to wait over a day and I was a day late reporting. But, I could have taken a plane in the morning and been there in the evening, but it never occurred to me. You just weren't flight conscious in those days.

Q. Do you recall what airline you flew, or what type of plane it was?

A. No. I probably didn't even know then what type of plane it was.

Q. How many passengers were on the plane?

A. About 30, I guess. It was a small plane, comparatively speaking, for one of today's planes.

Q. Had you ever known anyone else who had flown in an airplane?

A. I don't think so. You just didn't think of flying when you were going to travel. You thought of railroads. When people started to become air flight conscious, that's when the railroads started to downgrade their passenger service until they discontinued the passenger services. Which is a crime because, in Europe, I still love to travel by train. In the United States, outside of the Boston/New York/Washington corridor, I suppose there are other places in California, for example, between Los Angeles and San Francisco--if you want to go across

the country, nobody would think today of taking a train. That is, no one but my brother and sister-in-law. They've never flown. They won't fly. When I said I was going to Italy in February, my brother said, "Why don't you take a ship?" I said, "What ship?" They don't go to Europe anymore because they would only go to Europe when they could go on a ship and there are no ships anymore.

Q. As the '30s progressed, I assume you and your wife let everyone know that you, in fact, were married?

A. Yes. In '35. The year after we were married, it became public. We put a notice in the New York Times, with the date, July 24, 1934. We got a lot of telephone calls from the companies that specialized in picking your china, and silverware, and all that, so that people can go there and order your design. They would call up and they'd all want to know if the date was a mistake.

Q. What was the attitude in New York that you experienced as Hitler came to power in Germany?

A. I can recall a young German coming to the United States. I think he came as a member of the crew of a ship. He was a college student, and this was just for the summer or something like that. Someone referred him to us. He came up to our apartment where my brother and I lived, so this must have been '32. It was probably before Hitler came to power, but when Hitler was already making a big noise. He spent the evening telling us how Germany had to be the greatest nation on the continent again; that France was never going to serve that purpose. Later I came to realize that he must have been a Hitler follower even before Hitler became the Chancellor. As I say, at that time I had studied in France and I was a

*Francophile, so we argued for three or four hours. I didn't realize that I was arguing with a zealot. We just didn't appreciate the extent of the radicalism of Naziism, and how powerful it was becoming.*

*Q. Did that attitude permeate society? Were the problems in Europe just ignored or too far removed from daily life?*

*A. I think it was. We were very insular in those days. I can remember a very good friend of mine when I was in high school, his parents were German and spoke German in the apartment. They lived across the street from us. He used to go down to Yorkville, which is the German neighborhood in New York--86th Street and Lexington, the 80's in Lexington the 3rd, the 2nd. He went down there to a--I don't remember the word they have for these clubs that are really what we would call a gymnasium. They went down and they had organized athletics, and exercises, and that sort of thing. I used to go down with him, and thought nothing of it--a Jew going to a German area. Later, that was where the Bund had its meetings--on 86th and Lexington.*

*Q. Did you ever go to any of the Bund meetings?*

*A. No. I wouldn't go to that. I wouldn't take a chance on it. The Bund was like the KKK. They were operational, rather than just an organization.*

*Q. Did you ever experience any problems as a Jew in New York with the Bund?*

*A. No. They kept to their areas because they weren't powerful enough and they knew it. But they did a lot of propaganda work and that sort of thing.*

Q. When you were in France, do you recall any of the attitudes toward the Germans in relation to the Versailles Treaty?

A. Well, the French were all for every provision of the Versailles Treaty. As a matter of fact, they thought it was too lenient on the Germans. They were still very anti-German when I was there in the '20s. They blamed the Germans, as I believe they were justified in doing, for having caused WWI.

Q. How about the failure of Wilson to get the United States to join the League of Nations?

A. When that was going on in 1920, I was 13 years old and I wasn't very much interested in that. But my father was a staunch Republican because he came from Michigan and Michigan, in those days, was very Republican. No Democrat was elected in Michigan. This was a hangover from the Civil War. I do recall that when I became 21, my father took me to the local Republican Club. As a matter of fact, I suppose that I was a little bit oriented Republican-wise, because when Hoover ran against Smith in 1928, I couldn't vote then. I was 20-1/2. But I was pro-Hoover and my roommate, whose father was a big muckamuck in Tammany Hall and became a justice on the Supreme Court in New York, he was very pro-Smith. Between 1928 and 1932, I must have shifted very considerably because I never thought of voting for Hoover in 1932. Although, in retrospect, Hoover was a victim of circumstances. He was a top-notch administrator, but I suppose he just wasn't a good politician. Also, he was blamed for the stock market crash--something he couldn't get away from.

Q. Do you recall any prejudice in New York City against Smith because he was a Catholic?

A. *Not in New York City, because New York City has a very large Catholic population. But people would say that if Smith was elected the Pope would run the United States.*

Q. *How did the mood of the country, the legal profession, and your life change as the '30s progressed?*

A. *We were making progress. But I think it would have taken another decade if it hadn't been for WWII. WWII is really what turned things around and made unemployment a thing of the past because the factories were so busy producing for Great Britian and France, originally. There were still evidences of the Depression existing in the late '30s. The beginning of WWII ended that completely.*

Q. *Do you have any recollections of the furor over the Lend-Lease Program and Roosevelt getting us involved in it?*

A. *I wasn't in politics, but I can remember the furor. See, at that time, we were very neutralist. We were insular. The Atlantic and Pacific Oceans were going to protect us. The fact that he was doing these things infuriated the people who wanted to remain neutralists and insular. They claimed that he was violating the law. Well, he had an opinion from the Attorney General which said that he could do this. It was a very, very poor opinion. I think it was Robert Jackson that wrote the opinion. You could shoot holes through it, and lots of people did. A lot of newspapers did. In retrospect I suppose that Roosevelt had to do what he thought was right--he was a far-seeing person. He knew that if Hitler was successful, it would adversely affect the United States. We weren't going to remain insulated from Europe if Hitler controlled all of the European continent and Great Britian. So, I think he did the right thing, even though in some instances I think he skirted the law.*

Q. What are your recollections of when the United States finally went to war? What were you doing on December 7th, 1941?

A. I'll never forget that day! We would play badmitton every Sunday morning at the Armory on Park Avenue--7th Regiment Armory, I think it was called. It was a society regiment and the regiment played polo in the armory.

Q. You weren't in the Army yet, though, were you?

A. No. I was practicing law. But every Sunday morning, a group of us would play badmitton. We would play at this armory. We played badmitton that morning. We went home and we had guests coming to dinner. At about 3:00, the guests called up and said, "Isn't it terrible? Do you want us to cancel dinner?" We said, "Isn't what terrible?" We hadn't been listening to the radio. There was no TV then. We hadn't been listening to the radio. We didn't know anything about it until 3:00 in the afternoon when these people called us and wanted to cancel. We said, "No. Come over and tell us what's going on." We were going to turn on the radio, but we'd missed everything. That was our introduction to WWII.

Q. What was the mood of the people?

A. People were just up in arms against the Japanese for the sneak attack. Roosevelt went on the radio the next day. He went before Congress and that was broadcast. Everybody agreed with him that it was a day that would live in infamy. This united the country more than anything that had happened in years.

Q. Did you decide then that you wanted to get involved in the war, or was that something that occurred later?

A. *Within a month or so, I had applied for a commission in the Army and the Air Corps. I never applied to the Navy. I don't know why I wasn't Navy-minded. The Army turned me down. Then I heard about the VOC program--the Volunteer Officer Candidate Program--where they would take you in and send you to basic training and then through OCS--Officer Candidate School. If you were successful, you became a second lieutenant. If you were unsuccessful, they turned you back into civilian life. That was the theory. I was 3A or 4A, or whatever they called it in those days, in the selective service system. That meant that I was married and exempt until they reached that group. If you were 1A, you were in the group that was going to be called. I don't know what the other categories were. I was low priority, being married, even though we had no children. So I applied for the Volunteer Officer Candidate Program and I was accepted. I went through exams, intelligence exams and mechanical aptitude exams. I have no mechanical aptitude whatsoever. I can screw a screw in, but with a nail I will hit my fingers as much as I will hit the nail. I came out high in the mechanical aptitude, because it was all theoretical, you know. So I was accepted and I was notified that I would be called in September. In September I got the call and went to Camp Upton out on Long Island. For about a week I was out there before they sent me to Ft. Eustis to the Anti-Aircraft Artillery School. About a week or two after I got there, my wife enlisted in the WAAC. So that meant that I stayed in the Army whether I got through OCS or not because I was no longer 3A, or I wouldn't have been once they discovered that my wife was in the Army. I went through basic training, which was a horror, because I was 35 years old. Most of the other people in my battery were 18 or 19. When we had to do chin-ups or climb a rope on the obstacle course, I was always the last one. I made it, but I was the last one to do it. One thing that I had done when I knew I was going into the*

Army was to visit a jewelry store right across the street from my office. I am a clock fan and I had had things repaired by them for years, so I went in and I said, "I'm going into the Army and I'm going to have trouble. I have to shave everyday and these kids don't shave once a week. So, I've got to get up before them. Have you got some sort of small alarm clock?" Well, in those days they didn't have quartz or anything like that. But they had a watch, it's called a Hunter watch, and it's a pocket watch, but it has an alarm in it. I said, "I want to buy this." So they said, "Well, we don't know how well it works. It's yours, but leave it here for a week and we'll fix it up and make sure it works alright." No only did they do that, but they engraved my name inside of it. As a going away present I guess. And I took this clock with me to basic training. If we had to get up at six o'clock I would set it for a quarter to six and put it under my pillow. It wouldn't make a sound that you could hear, but it would shake my pillow and wake me up. I would immediately turn it off and get up and go and shave and wash, so that by the time reveille sounded, I was ready to get dressed and I was able to get out, ready for the day. The bad thing about Ft. Eustis in those days was the Army used soft coal. The coal dust and the smoke would go up about 25-50 feet and would just stay there. It was in a hollow, so there was no wind to blow it away. I coughed for the three months I was in basic training. I finished basic training and had a week's leave before I went to OCS. During that week, I stopped coughing. Then I went to OCS in Wilmington, North Carolina, at Camp Davis and there was no problem.

- Q. You mentioned the fact that you were 35 years old at the time and most of the other people in basic training were 18 or 19. You had a fairly decent law practice going. Why did you want to be a 35 year old Lieutenant in the Army?



A. *There was a war on. I wanted to be a part of it. I wanted to do what I could. The only thing that I could do was to go into the armed forces. There was nothing in civilian life that I could do as a lawyer that I knew of. I was not very government-minded. I didn't know anything about how the government operated, and Washington with civilians, I probably could have applied for a civil service job and gotten a job. But that never occurred to me. As I say, I applied for the Army and the Army Air Corps and then the VOC program.*

Q. *You were a college educated 35 year old man in basic training. Did the drill sergeants like to pick on you for that?*

A. *One did. Most of them didn't. But this one, he got me infuriated. When I was commissioned, my first assignment was back to Ft. Eustis. I was really looking forward to going back there and hoping I could become a battery officer in the battery that he was assigned to. But, I arrived at Ft. Eustis and the AG told me my orders had been changed, and I was joining the 701st Regiment which was then at Ft. Miles Standish in Taunton, Massachusetts. It no longer exists. The regiment was being consolidated there. Then we were coming down to replace the Regiment which was here at Newport, Rhode Island, which was the 7th regiment from New York. It was a bunch of social people-- Park Avenue types, you know. They had run up bills of hundreds or thousands of dollars here. Then we moved in and we had just a polyglot group of people. They held us responsible for it. At least some of the shopkeepers did.*

Q. *You said you went to Camp Upton?*

A. *Camp Upton. It was--I've forgotten what they call it--a replacement center, I think. You went there and they would send you out to different places from there. It was a horrible*

place. You lived in a tent with no floor. That was quite an introduction to the military. If it rained, the mud was about a foot deep. Fortunately, you normally didn't stay there for more than 24 to 48 hours. But, for some reason I was there for almost a week.

Q. How long after Pearl Harbor did you report to Camp Upton?

A. September, 1942; about nine months. I had been notified in about May that I'd been accepted for the VOC program. I kept writing the Army and saying, "Look, I can't just pick up and go. I've got to make arrangements." Finally they said, "Ok, you'll be called in the first week of September."

Q. Were you a partner in your law firm?

A. No. I was an associate. We really were all partners. We all owned a percentage. But the two whose names were in the firm were the seniors. That was White and Goldman.

Q. After, eleven years with a law firm, were you making a fairly comfortable living for that time?

A. I think so. We had everything we wanted. Things were so cheap then, comparatively speaking, so your income was much lower. You could buy for a dollar then, what now costs ten dollars.

Q. What was the attitude of the firm partners when you informed them that you had volunteered to go into the service.

A. They were all for it. We had two or three youngsters, not lawyers, who did legwork for us. We had three and two of them went in also. I suppose they went in because they were 1A. They were called in. I guess I was the youngest at that time,

*of the lawyers. I was the only one that went into the military. The others, well I guess the youngest was probably two or three years older than I was and married with children.*

*Q. What was you wife's attitude?*

*A. She was content to see me go in. I didn't realize it, but she had the intention of enlisting as soon as I was in, and she did.*

*Q. She hadn't told you that she was going to enlist?*

*A. No. We had talked about it, but she hadn't made up her mind until she actually did enlist and wrote me that she was leaving for Indiana I think that was where the WAACs had their training camp.*

*Q. Was she enlisted during the war or an officer?*

*A. She was enlisted. She became a sergeant. Women in those days had to volunteer for overseas service. I was in New Guinea at the time. We had some WAACs there. I saw what the equator did to them. When she wrote me and said she was going to volunteer, I wrote back and said, "Don't do it. You have no guarantee you'll go to Europe. You might end up in a place like one of the Pacific Islands. That's no place for a white woman."*

*Q. What was the equator doing to women?*

*A. Well, the heat was a constant 100° temperature. They wilt. Their complexions would go. I don't know if they ever could recover. The equator is not a place for a person who is not accustomed to heat. New Guinea, where I was stationed, was 8 degrees off the equator, which is pretty close to it.*

Q. You finished basic training and you went to Camp Davis. That was in the Coast Artillery. Did you have a preference for that or did the Army just tell you that's what you were going to do?

A. When I went through the VOC tests they said, "What would you like?" I said, "Air Corps." They said, "That's filled." So I said, "Well, then I don't care what you give me." They said, "Alright. We have a requisition for anti-aircraft artillery, coast artillery. We'll give you that." So I said it was alright with me. I didn't know the difference between any of them anyway. As a matter of fact, I thought coast artillery was restricted to forts with big guns to keep ships out. And it was until anti-aircraft became important. Then Coast Artillery was assigned the anti-aircraft mission.

Q. What was OCS like?

A. The first week was bad because you had nothing but trigonometry for a week. I've already told you my feeling about math. The worst of it was you have a book with tables of sines and cosines and tangents and cotangents. I went to the exam on Friday and forgot to bring my book. I had to arrange with a fellow sitting next to me that I would use his book, but if he tapped me I would immediately hand it him. I wouldn't finish looking for something. How I ever got through that, I don't know. About 50% of the people who took it each week would bust it and have to take it over again. I think they would allow you to take it three times. If you didn't pass it after three times, you were out of OCS. Well, I passed it the first time but I still don't know how I did it. The following week, if you had asked me what a cotangent is I wouldn't have been able to tell you. I had just learned enough to pass that exam. After that, it wasn't difficult. It was just spit and polish. I enjoyed learning

*how to give commands and moving a group of men back and forth and around. All in all, I didn't find OCS as difficult as basic training.*

*Q. Nowadays, OCS involves a fair amount of harrassment. Was there a lot of harrassment?*

*A. Yes. Not a lot, but they did the same thing. They wanted to make sure that you could take pressure. There were people dropped because they couldn't take the pressure.*

*Q. What kind of things would they do to see if you could take the pressure?*

*A. Oh, they'd ball hell out of you for something you hadn't done in front of the whole troop. They'd run you for a half a mile then walk for ten steps then run you for another half mile. I don't recall all the things that they did. But I know they did things to see whether you would give into the pressure or whether you could take it. I think that was good. I accepted it for what it was. I understood it. I was old enough to know what they were trying to do.*

*Q. How long had your basic training been?*

*A. Three months.*

*Q. How long was OCS?*

*A. Three months. As a matter of fact, I was commissioned six months and three days after I was sworn in. That was March of 1943. As I said, I went to Ft. Eustis. I was there for 24 hours. Then I was going to Miles Standish. Recently I got a request for money from the YMCA. They have a YMCA here. They*

call it the Army and Navy YMCA, or something like that. I sent them a check and I said, "The reason I'm sending you a check this size is as follows." And I told them this story. Two of us came up from Eustis to go to Miles Standish. We got off the train in Providence. We had to take a bus or something from there. We had been up all night on the train. We were bedraggled. We needed shaves. We didn't want to report to a new regiment looking like that. We asked where we could go and people would say we could get a hotel room, but you couldn't get a hotel room in those days. Somebody told us to go to the YMCA in Providence. So we went to the Y. They gave us a room with a bath, a shower. We shaved, we showered, we changed into new uniforms, went down--no charge. So I said this was my payment for that.

Q. Where was your first assignment?

A. I went to Ft. Miles Standish. As I said, the regiment was being consolidated then to move down here to Newport, or the Newport area. I became a platoon officer. We had a bunch of retreads. Do you know what a retread was? We had first lieutenants who had been first lieutenants in WWI and had gotten out of the Army. My platoon commander had been a professor of mathematics at a university someplace in Ohio. Our captain was a reservist who had been called up. He was a younger man, though. He was a captain in the coast artillery from one of the Carolinas, I think. He was good. He knew his business. The lieutenants had been given no retraining. They were just called to active duty and sent here. But we went into training up at Miles Standish and by the time we moved down here, we knew what we were doing. I was the advance agent to come down here and see where the positions would be. Then I was the claims officer when we came down in convoy. I hadn't the slightest idea what a claims officer was. It's a good thing we didn't have any accidents

because I wouldn't have known what to do. I was mess officer and I was transportation officer for the battery. At one time, I became the radar officer. We had three radars. Our radars looked like bed mattresses, the springs in mattresses. They were about the size of a king size bed. We had them stationed out near Little Compton, and one was up probably in Portsmouth, and the third one was over in Quonset, I guess. Our automatic weapons battery was in Quonset. Our guns were here in Newport. My battery had searchlights, and we were here to light up for the guns. It was no longer called the 7th Regiment. I don't recall the number of the regiment we replaced. My regiment was the 701st. We were broken up into separate battalions, and my battalion was the 301st. There was a man who gave a lecture a few years ago on the defense of Narraganset Bay during WWII. He mentioned Ft. Adams. Ft. Adams, actually, was not a part of the defense because it was where we drew rations, but the guns were not manned. There were no guns there, I don't believe. There was a fort on the other side of Narraganset Bay. He mentioned a number of units, but he didn't mention the 701st. So I went up to him afterwards and I said, "I notice you didn't mention the 701st regiment." He said, "Well, I couldn't mention all of them. I have all the story of the 701st here." I said, "I served in it for six months in Newport." So, I gave him a few odds and ends that he didn't know about the regiment. Oh, let me mention this as a lawyer. The day I reported to the regiment up in Miles Standish, they looked at my record and immediately I was appointed trial judge advocate of the regimental special court. Up there we had no trials. We came down here, went into positions, and we started to have trials. For the record, the colonel called the court members and the trial judge advocate into his office, but not the defense counsel. The court included five officers, Coast Artillery officers. I was a Coast Artillery officer, also, but I was trial judge advocate. Because I was a lawyer, they had

appointed me to that job. There was a defense counsel who was a first lieutenant. He was Coast Artillery also; also not a lawyer. He was not present at this meeting. The colonel started off by saying that when he graduated from West Point, which was before WWI, he had been first in his class in the law course, and that he knew what to do with law; when he sent a case to the court it meant that the man was guilty; that they were to find him guilty and give him the maximum punishment, and the colonel would exercise any clemency that was due in a particular case. Well I had been in the Army for a little over six months at that point. I was still civilian oriented, and I nearly fell over backwards and started muttering to myself. When we broke up I commented to the members of the court, "Is this the way things are done? That seems a little unfair. It doesn't seem like he's going to get a fair trial." Actually, they did get fair trials. One man got an acquittal, and he deserved it. So the members didn't follow his instructions as he gave them. One of the cases that I had demonstrated that also. We had a battalion Sergeant Major who came from New York. We had a man who went AWOL and was picked up in New York and we had to send down for him. It was a chance for the battalion Sergeant Major to see his family, so they sent him down to pick this AWOL man up and bring him back to Newport. He did that. There was no train here, so they came up by bus from New York. They arrived at the bus terminal. He sat the man down and he went into a telephone booth and called for transportation with his back to the man. The man got up and walked away. So, he was charged with negligently permitting a prisoner to escape. Well, he was a favorite of the battalion. He was an excellent battalion Sergeant Major. Why he was ever so careless, I don't know. But the case was scheduled for trial on a Saturday night. My wife was coming up to visit me for the first time. I called the president of the court and I said, "Do you think we could change this to Sunday night?" He said, "Oh, the Colonel



wouldn't like that. I don't like to ask him to change it." I said, "Well, you're the president of the court. Can't you call it for Sunday instead of Saturday?" He said, "No. I'd have to go to the Colonel." So I said, "Ok then forget it." When my wife got here, I said, "I'll have to leave you this evening for awhile to try a case." I got a call from the Colonel. He said, "what's this I hear about this case being adjourned? I want it tried tonight." I said, "Colonel, the case is being tried tonight." So we go into trial and the Sergeant Major had made the mistake of having an enlisted lawyer represent him. The enlisted lawyer was a New York Magistrate's Court lawyer. He was always kowtowing to me, saying things like "Oh, the prosecutor knows much more about this than I do." At the end of the prosecution's case, the defense moved to dismiss. The court goes into closed session and comes back and says, "We direct the trial judge advocate to produce more evidence." So I said, "Mr. President, I don't have any more evidence now. You'll have to give me a 48 hour adjournment." He said, "Twenty-four hours. Tomorrow night." So that meant that Sunday, instead of being with my wife, I went out checking for evidence. I found the ticket agent of the bus stop who had seen the whole thing. I brought him back and he testified. There was no question that the man had been negligent. So the court found him guilty and they gave him a reprimand. Oh, the Colonel hit the ceiling. The president of the court, I think he was the S-3. He came around to inspect my position one day and he said, "You know, the Colonel is very angry at us." I said, "Well, I don't know why he should be angry at me. All I did was try the case and got a conviction. I had nothing more to do with it." "Oh, no. He's not angry at you. He's angry at the court." Well, I tried a number of cases. I probably tried 10 or 15 special court cases in the few months that I was here. We moved down here in about April and in June they sent me to the anti-aircraft artillery school for the eastern defense area, which

was at Fort Totten in New York. I was to go down there for six weeks for this advance course. I just took what I needed, such as uniforms, and left all my belongings in my footlocker here. Two days before I was due to come back--I think graduation was on a Friday and I was coming back on Saturday--on Thursday I got a call to find out when I'd be back. I said, "Saturday afternoon." They said, "Fine. We have a general court set up for Saturday night and you are the law member of the court." In those days the law member was a voting member of the court and he went into closed session and he told the court what the law was in the closed session. Then he voted with the others as a member of the court. I said, "Ok. What's the case about?" They said, "Well, we can't tell you. You'll have to read the papers when you get here." So I was going to get back at four or five o'clock and at six o'clock I was going to be sitting as a law member of a general court-martial. Friday before graduation I got a call, "You've been reassigned. You're going from Ft. Totten to Camp Ritchie in Hagerstown, Maryland, to the Intelligence School." I said, "Don't I have time to go back?" They said, "No. You've got to go down there, report in on Sunday, and classes begin on Monday morning." Camp Ritchie later became a Fort. Back in the fifty's, I guess it was, anything that was permanent became a Fort. Anything that was not permanent remained a Camp. Ritchie is a beautiful little post, but it was so small that you couldn't do very much with it. I don't know whether it's been enlarged or not.

- Q. What was the mission of the 701st Regiment in Newport, Rhode Island, of all places?
- A. We were to protect the torpedo works on Goat Island from German bombers. We did. Not one German bomber ever got through.

Q. Was there really a fear that German bombers would bomb the east coast?

A. Absolutely. We had anti-aircraft artillery regiments all along the coast. This was part of the Eastern Defense Command. Eastern Defense Command covered about 12 states, coastal states. There was a fear. Nobody really knew what was going on. We didn't have the intelligence that we have now. Now they can tell you that a MIG 23 will fly 570 miles without being refueled. Then, we had no idea. Of course, the Germans had been at war for two years and there was a lot that had gone on that nobody knew about. You're able to keep those things secret in a wartime situation that you couldn't in a peacetime situation.

Q. Did you practice blackouts with the civilian populace of Newport?

A. Yeah. Our jeeps had blackout lights. Just a little sliver.

Q. What type of weapons did you have to protect Newport?

A. We had a battalion of 40mm Bofors, most of which were on Quonset, which was a big Navy airbase at that time. That's where the quonset huts came from. We had a battalion of 90mm guns here and we had a battalion of searchlights. In those days, the radar was just coming in and it wasn't very good. In order for the 90mm guns to fire, we had to illuminate the plane. We had these 800,000,000 candlepower searchlights. They were powerful things. We had to generate our own electricity. I always used to say that I was going to buy one of those generators when the Army disposes of it after the war. It would be a wonderful thing for a backup system if you live in the country where the electricity goes off all the time. I never

*did get one. I still talk about it though.*

*Q. In some of the old film reels of the time they always show the U.S. being very unprepared for WWII; things such as soldiers practicing with broom handles. Was that your experience?*

*A. By the time I got in, the Army had guns. We didn't have any broomsticks. But that's exactly what took place after Pearl Harbor Day. When the Selective Service System started calling up people, they did not have the facilities or the camps for them. Fortunately, there were a lot of CCC camps that they could still use. They didn't have the weapons. It took time to get them. The Garand was a comparatively new weapon then. It only came into use in the '30s. There just hadn't been that many of them produced. The Garand was the rifle that had replaced the Springfield. The Springfield was bolt-action. You had to move it everytime you fired. The Garand was gas operated, so it was semi-automatic.*

*Q. When you got to basic training and to OCS, were your instructors senior Army individuals who had stayed in after WWI, or were they individuals who had been called up prior to you?*

*A. Most of the noncoms were too young to have been in WWI. But they had plenty of experience - 10 or 15 years. The officers were a mixed lot. This colonel, the original regimental commander, had been in WWI.*

*Q. Do you remember his name?*

*A. Mitchell. I don't know what his first name was because I was never that familiar with him. He was really the kind that you didn't get close to, you know.*

Q. When you came on active duty, were you aware of the JAG Corps?

A. Oh, yes. My brother was about to become a JAG reserve when I got sick out in Cincinnati. Because of that, he came out there and he had too much to do, and he never went through with the JAG reserve commission. At that time, the lowest rank in the JAG reserve was Major. You came in as a Major.

Q. You talked about a court-martial where you were a law member. Was that a prosecutor, or did you simply advise the court?

A. You were a member of the court and you advised the court in closed session. Not openly, the way the military judge does now.

Q. So, there was no military judge at any of these trials?

A. The law member was considered to be the military judge. But very frequently, he was not a lawyer. You take the Yamashita Commission. The commission that tried General Yamashita. The General that I worked for, who was an engineer, was the law member of that commission. He was on it for the arraignment and then he was sent back to the United States.

Q. Was there any type of script that the court used?

A. There was a script in the back of the Manual for Courts-Martial.

Q. Do you recall what year Manual you were using?

A. We were using the 1928 Manual, I think. You know that in 1951 there was a Congressman who changed what we called the "Articles of War" that we operated under then. In 1951 there was

something enacted that updated the Articles of War. Then in 1953 or 1954, the Uniform Code of Military Justice was enacted.

Q. Do you recall any provisions of the 1928 Articles of War?

A. If I don't have one it's because I sent it to the JAG School. I had one around. I'll look for it, but I'm not sure. It was a little thin thing. It probably didn't have 100 pages. There weren't very many Articles of War. There were 60 or 70. Nothing like the 150 or something that we have now in the Uniform Code. It had forms, because so many cases were tried without lawyers. Even general courts-martial rarely had lawyers. The only reason I was going to be on this court as a lawyer was because I happened to be a coast artillery officer, a member of the regiment that had the court-martial coming up. I don't even know who appointed the court-martial. It must have been the brigade headquarters in Boston. You had a brigade that commanded a number of regiments along the coast here. They probably had general court-martial jurisdiction. The Eastern Defense Command was commanded by a Major General only, although he commanded about twelve states of the coast.

Q. How was minor discipline handled? Did commanders have the Article 15, nonjudicial punishment then?

A. It wasn't called that, but we had it, yes.

Q. How did nonjudicial punishment work?

A. About the same way as today. I got involved in one of those. My sergeant was speeding and passed an officer of another battalion. The other battalion reported him to my battalion commander. He preferred charges under what is now the Article 15. The sergeant came to see me. I told him what he should do,

how he should behave himself, and what he should say. I got a call from the battalion commander wanting to see me. I went to see him and he said, "I understand you're going to represent the sergeant. You know, in summary courts-martial the defendant's not entitled to counsel." I said, "I know that, Colonel. I don't intend to represent him. I'm a character witness." He tried it and I think he gave him a \$25 fine, or something like that. I don't think the punishments could be as much as an Article 15. I don't think he could send him away for 30 days, the way you can with an Article 15.

Q. When you were involved as a law member, was there another individual who served as the prosecutor and another officer was the defense counsel?

A. Yes. All laymen.

Q. Was there secret voting in the jury room?

A. Yes. The court would go into closed session with a law member who was a member of the court. He just happened to be designated as the law member, as a member of the court. There was a president of the court, also. When the law member ruled on a question of evidence on objection, he could be overruled by a vote of the court. This was not done privately. This was done in public. Even though it was on a purely legal question--you know, the court might admit something on tertiary evidence; not even secondary evidence--and you would say it's not admitted; it's secondary evidence; it's not the best evidence available. The counsel would object and ask for a vote. The president would put it to a vote, and the court might overrule it. Even though it was secondary evidence, they would admit it.

Q. So you could have a valid hearsay objection by defense counsel overruled.

A. Yes. Or by a prosecutor. You could be overruled and sustain the objection.

Q. As an officer who had practiced law in civilian life, did you believe it was a fair system of justice?

A. It worked out fairly, although there were so many places it could go wrong. Undoubtedly, in some places it did go wrong. But I didn't see any place where there was injustice done. Now, when I was here, it was only a special court. We didn't have general court-martial jurisdiction. But where I've served elsewhere, for example in 1950 I went to Korea to replace some officers who were coming to the United States for a meeting. While I was there, I sat on about 10 or 15 general courts. I would say that every one of them, if they erred in any respect, it was in leniency. We had one case, for example, where a soldier had shot and killed a prisoner of war. There was no question about it. He had shot and killed this prisoner of war who was being interrogated by intelligence officers at the time. Well, it turned out that what had motivated him to do it was that he had been on patrol and his buddy had been killed on the patrol. He comes back and he sees this man in a North Korean uniform, and he just lost his temper. He still had his rifle and he picked up his rifle and shot the man and killed him. The court took that into consideration. I think they gave him about 3 years. It was a clear cut--well, I won't say it was premeditated murder, but it was at least murder two--and they gave him three years, which was nominal for the charge.

Q. Did many soldiers appeal their cases, or try to appeal their cases?



A. Well, if you got over one year, it was an automatic appeal. Under a year, there wasn't. When I sat on the Board of Review in the Pentagon, I was on what was called a long holding board. We got any case where the sentence was more than ten years, and we had to write an opinion. If you got five years, it would go to a board that might affirm without an opinion, or might reverse without an opinion. Normally, they wouldn't reverse without an opinion, but they very frequently affirmed without an opinion. But, if you got over ten years, it went to my board and we had to write an opinion.

Q. If there was a case where improper evidence was voted in over the legal opinion of the law member, would soldiers try to appeal cases on that issue and get them overturned, or was that unheard of?

A. They could. I don't recall what the procedure was. I didn't have too much experience with the actual general court-martial. I had had the special here on which there were no appeals, and then I was on the Board of Review in Washington. I was never in a general court-martial jurisdiction while these codes were in effect. When I went to Tokyo, we used the old 1928 Manual, but I was in a command that didn't exercise general court-martial jurisdiction. It was the top command. Then the '51 thing came in and I was still in that same command, excepting that I went to Korea and heard those cases. Those are the only cases that I heard. I never tried a general court-martial jurisdiction case at that time, until the present Uniform Code came into effect.

Q. Did they have court reporters? Also, were there verbatim transcripts or summarized transcripts?

A. *Stenographers. We had no mechanical means of recording cases. The special courts were not recorded. The trial judge advocate, who was the prosecutor, had to prepare a summary of the trial.*

Q. *But a general court-martial would have a verbatim record?*

A. *Yes.*

Q. *After your assignment in Newport and the advance course at Ft. Totten you went to Camp Ritchie. What were your duties at Camp Ritchie?*

A. *Well, I had applied for the Intelligence School shortly after I got out of OCS, on the basis that I spoke French. So they sent me to the Intelligence School where I studied photo interpretation. Then they sent me to the Pacific because I spoke French! But, I became a photo interpreter. When I went to the Pacific, I never saw a photo there. The Air Corps did it all. But I was in G-2 of the headquarters in New Guinea. We did intelligence work of a kind. That is, we checked vessels that came in to make sure that they were due in and were entitled to be in; that the crews were alright; that nothing was going wrong. But, it was very little intelligence work. I never put to use what I learned at Camp Ritchie. I enjoyed it. It was my first experience with prisoners of war. We had about 500 Italian prisoners of war who worked in the mess. They enjoyed it much more than we did. We'd be in class and look out of a window and they'd be yelling and playing soccer. No guards on the gate. They never lost a prisoner. They were happy to be there, out of the war, being well fed, and not working very hard.*

Q. *How did the local populace react to having all these POWs in their back yard just roaming around?*

A. They never left the base at Ritchie. I never left the base, either, so I don't know what the reaction there was. Incidentally, do you know Hays Parks? Well, Hayes just sent me a copy of an article that appeared in the newspaper. He asked me what I thought of it. It said that American prisoners of war in Germany were treated better than German prisoners of war in the United States. The article says in particular they were better paid. Well, number one, the United States paid eighty cents a day to prisoners of war which is more than anyone else paid; and number two, what good did it do you in Germany to get a lot of money? There was nothing to use it for. Here they had canteens where they could buy cigarettes, beer, and things like that. In Germany, you could probably get a bottle of beer once a month or something like that. I was going to write to the author because he said, "some historians say that Germany POWs received better treatment." I wanted to find out what historians he was quoting.

Q. Was that an American author who had written that article?

A. Yes. It was a reporter on some newspaper out in Minnesota. He was writing about the fact that Minnesota is a German speaking area, and there were many German prisoners of war there, some of whom came back to live after the war. He had talked to some of them who had come back and based his article on that. But where he got the information about the treatment of Americans in Germany, I don't know. They weren't mistreated. The Germans complied with the Convention as far as Americans and British were concerned. They didn't, as far as the Russians were concerned. So did we. We complied with it. My God, in the prisoner of war camps, if there was a radio and they were listening to local broadcasts which might have anti-German material on it, it could not be in a place where you had to

listen to it if you didn't want to. It had to be taken to a place where the person who wanted to listen was the only one who would hear it. We were that careful about not brainwashing or not being charged with brainwashing.

Q. After you left Camp Ritchie, did you go to New Guinea?

A. When I finished at Camp Ritchie, I got orders for the Far East. I didn't know where I was going. I was just ordered to Camp Peterson, or something like that. It's outside of San Francisco. It probably doesn't exist anymore. It was another one of those transient camps. When I got there they put us on a ship. One of them was the Lurline, the other one began with an "M". There were two ships. I was on the other one going over and I came back on the Lurline. They belonged to that shipping line that went to Hawaii and then to the Philippines, I guess. I went directly to Port Moresby, New Guinea. That was about January, 1944. I was in New Guinea then, until about May of 1945.

Q. Did your whole battalion go?

A. No. I was not in a battalion anymore. When I went to the Intelligence School, I was relieved from the battalion.

Q. So you went to New Guinea as an intelligence officer?

A. As a replacement intelligence officer. There were about six of us who went there. I was assigned to the top headquarters, which was commanded then by a BG. About two or three months later he became a MG. His name was Clarence Sturdevant. My boss--this has to go on the record because of events which you may or may not know about--my boss was a quartermaster major by the name of Lewis Shull. When the chief of staff went away, he

became the acting chief of staff. I was a second lieutenant and I'd been a second lieutenant since March of '43 and this was probably more than a year later. He took the recommendation for my promotion to first lieutenant into the general. This is all on his own, because he happened to be acting chief of staff and in a position to do it. The general looked at it and he said, "Well, I thought there was a freeze on promotions." By this time, I was out of his office and I was the aide to the general. Major Shull says, "Not for your aide, General." The general looked at him, signed it, and a month later I was a first lieutenant. He did the same thing about four or five months later, when the general had become a major general and was entitled to a captain as an aide. When he was acting chief of staff for a few weeks, he took in my recommendation for promotion to captain. We went up to the Philippines on a trip and when we got to Leyte, the personnel officer said, "How come you're wearing only one bar? Your promotion went through two weeks ago." Well, the word hadn't got down to New Guinea. So I became a captain because of him. Now, the reason I raise that is because Lew Shull was a very good friend of mine. I like him. I still like him and respect him. He became a brigadier general in the JAG Corps. He got into trouble. I was not there. It was in Europe and I was back here in the United States someplace. It's my understanding that he was busted back to Colonel and retired. I have no idea what it was, or what he was accused of doing. I still consider him to be a very good friend, and I will remain so.

Q. When you went to New Guinea, what unit were you assigned to?

A. I was assigned to the Headquarters, Communications Zone. I've forgotten the name. They had a special name for it, but I don't remember what the name was.

*Q. Were you assigned to a division or a corps, or what?*

*A. No. I was in the G-2 office of the headquarters. We were responsible for the logistics of all of New Guinea, which is about 1500 miles long. At the time I got there, we only had about 700 miles of it. The other 800 miles were held by the Japanese. Then in October of 1944, we landed at Hollandia, bypassed a lot of the Japanese, with the result that we occupied about 1000 miles of New Guinea, with the Japanese in our 1000 miles, but being eliminated by the Australians at that point. Because of the success of the Hollandia operation, the Leyte operation was advanced by about sixty days. I think we were supposed to go in about January or February. Instead of that, we went in about thirty days after Hollandia, about the end of November. Maybe sixty days after Hollandia. By that time, we had taken some of the islands, Biak and Morotai, so that we really controlled the New Guinea area, although there were Japanese all over the place. But they were isolated. There was nothing they could do except starve.*

*Q. Was General MacArthur in charge of the New Guinea operation at this point?*

*A. Oh, he was Commander in Chief of the whole Southwest Pacific area, which included New Guinea and the Philippines. The pacific fleet commander, Nimitz, commanded the South Pacific, which was New Caladonia and the islands--the Admiralties, the Mariannas, and those islands. They were responsible for the attacks there and MacArthur was responsible for anything from Australia up.*

*Q. As an intelligence officer on New Guinea, what type of duties were you performing?*

A. Very few. Negligible. That was why I was happy to become the aide. By being the aide I was more involved in what was going on, even though we weren't in actual combat. But we were in support of combat. I remember when the Australians landed in Borneo, we supported them with petroleum products. I said to the general, "General, don't you think we ought to go to Borneo and see that they're getting all the fuel they need?" He said, "Well, it might not be a bad idea. I'll think about it." A couple of hours later he called me and said, "I looked at the map. That's a little too far." It was about 1500-2000 miles away. He had his own plane, a C-37 I think. The cargo plane; the work horse. A lot of people say that the Jeep and that C-37 won the war for us. He had one. It didn't have any seats in it. It just had the racks along the side. He said, "I've arranged to have four seats put in so we can face forward instead of sitting aside on a canvas. Take it down to Sydney. If they can't fix it there, take it to Melbourne." Well, Melbourne is a place I've always wanted to see. He knew it. I'd told him I'd be happy to go to Melbourne. I took the plane down to Sydney and the pilot was able to get the work done there. We flew back to New Guinea and I told the General that all the work was done. He said, "How did you like Melbourne?" I said, "I didn't get there, General." He said, "Why not?" I said, "We got the work done in Sydney." He said, "You should have gone to Melbourne anyway."

Q. The general you were the aide to, what were his responsibilities?

A. He was the commanding general of the headquarters of the communications zone, I think it was called. He was responsible for all of the logistics, everything that landed in New Guinea which supported the troops fighting in the western part of New Guinea plus the Philippines, and so on up. At that time, we had

no bases outside of New Guinea. The Navy had some on these little islands, but they weren't big enough to be real bases. We had bases all over New Guinea that were crammed with every type of item that the military could use. We were the warehouse. We'd fill the requisitions from the troops.

Q. Hasn't MacArthur, in the past few years, received some criticism for some of his actions on New Guinea?

A. Well, there are people that say that he was reckless with lives. But they've said that about every General who lost some people in combat. I didn't like MacArthur, frankly. But I still think he was the greatest tactician that we produced in WWII or Korea. I don't think that he wasted human life. I think that his operations were done with a minimum of loss. Where we had losses, like on Okinawa, he didn't command Okinawa. That was a Pacific Fleet operation. But where we had losses, it was because of the attitude of the Japanese. No surrender--we die in place and we take you along with us. If people are going to do that, same as the kamikaze, there's nothing you can do about it. They're going to get people. Your losses are going to be greater than they would be if you were fighting someone who realizes that if he can't get anyplace, he surrenders. But the Japanese didn't do that. In Okinawa, when they realized that they weren't going to get anyplace, even the civilians jumped off the cliffs into the ocean.

Q. Because of that attitude, did we have any Japanese POW camps that you visited?

A. No. We had no Japanese prisoner of war camps. We may have had some holding camps to hold them until a ship came around. They were all sent to either central Australia or the United States. There weren't that many. I doubt if there were 500 Japanese



prisoners of war in the United States. There were several thousand in Australia. As a matter of fact, they had a riot there at one of the prisoner of war camps. I have a book dealing with the riot. But, you know, you'd go on to an island like Biak where they may have had 10,000 soldiers, Japanese soldiers. When the fighting was over, you had 100 prisoners of war. Nine thousand, nine hundred were dead.

Q. What were the soldiers' attitudes towards McArthur?

A. It's mixed, just like the public attitude I think. Some of them thought he was an S.O.B., and some of them thought he was terrific. Very few people liked him as a person. He did things like . . . we had no liquor. Some officers in New Guinea got a bright idea and they formed a club and you could put, say, \$20.00 in and they collected several thousand dollars. One man who was going down to Australia was able to buy \$5,000 worth of liquor, and brought it back. It was in a warehouse locked up in New Guinea to be distributed to the people who had contributed. MacArthur heard about it and compelled them to sell the liquor to the Australians and give us our money back. Well, that didn't make friends and influence people.

Q. How long did you stay in New Guinea?

A. I was in New Guinea from about February, 1944 to April or May of 1945. That was my station. Now, I was in Australia very frequently. I was in the Philippines after the landings at Leyte, and later in the Lingayen Gulf. But I would only go up there maybe for a week or two and then back to New Guinea. New Guinea was my base until I moved to Manila after we'd taken Manila.

Q. *What was the attitude when we eventually went back to the Philippines and landed at Leyte?*

A. *Well, the Army was all for it. The Navy didn't want us to. They wanted to go to Taiwan. They didn't want to go to the Philippines. They wanted to bypass the Philippines. MacArthur refused to do that because of his statement "I will return." He was able to persuade the President that we should go into the Philippines and go up that way rather than going over to Taiwan. But then the Navy, as a compromise, went into Okinawa.*

Q. *What was your job when you got to the Philippines?*

A. *I was assistant executive officer in the office of the Deputy Chief of Staff, Administration, of Army Forces, Western Pacific at AFWESTPAC. That was a command that controlled everything outside of 6th Army. All the new troops that came in were assigned to AFWESTPAC, in preparation for the landing in Japan. It was commanded by a lieutenant general by the name of Styer. As a matter of fact, the Yamashita cases, were styled Yamashita against Styer because he was the General who convened the military commission that tried the Yamashita cases.*

Q. *What were your perceptions when you first got to Manila? What kind of shape was the city in?*

A. *It was a wreck. When we lost Manila, MacArthur had declared it an open city. We withdrew everything to Bataan, with the result that the Japanese just walked in. There was no serious damage done. But when we went back, the Japanese didn't do that. You declare your own cities open cities. You don't declare enemy cities open cities. They fought for every block in Manila. The artillery fire just destroyed building after building. As a matter of fact, the Post Office, for some reason, was left*

standing. It was one of the only buildings. The High Commissioner's palace was a wreck. The hotel that MacArthur had lived in before the war was a wreck, although they fixed it up so that he got back his penthouse. It was all a wreck. A lot of it was quickly repaired. I was guide to a congressional group that came over. Everybody had gone up to Tokyo Bay for the surrender ceremony. My general was the senior officer left in the Philippines. This congressional group came over and he designated me to escort them. That was when I became anti-Congress. Because, number one, we had to open a special post exchange in the hotel they were staying at with items that were not available in any other post exchange. Number two, we had to have liquor available for them. Number three, this was the Subcommittee on Military Appropriations, and the Chairman for the subcommittee had sent word that he wanted ice cream to be available at all times. When he got there he asked me, "Where's the ice cream?" I said, "Congressman, we don't have any. We don't have facilities to make it and the small amount that's being made is in the hospitals." "I said I wanted ice cream," he said. I shook my head and walked away. What could you do? But he was sore because the only ice cream was being used in the hospitals. There wasn't enough even for the hospitals. Then we went out to Corregidor and he stood with his foot on an overturned cannon and he said, "This is an historic day. General MacArthur is up in Tokyo Bay taking the surrender of the Japanese and we're standing here in Corregidor." I don't know what the standing in Corregidor has to do with it. But it was history to him, so let it be.

Q. Do you remember who the Congressman was?

A. I remember, but I won't mention his name. He's not around anymore. Well, there's no reason why I shouldn't. It was Congressman Snyder from Pennsylvania.

Q. What was Corregidor like when you were there?

A. It smelled just like the Trenches de Bayonettes at Verdun. I would have gotten claustrophobia if I had been involved in fighting in there. It was all underground. If you came out, you would get shelled. The wounded were in there. The hospital was in there. There was no movement of air because it was blocked on one side. Actually, we couldn't get the Japanese out of Corregidor. So what we did was we poured gasoline into the gun slits and set it afire with a flame thrower. That's how we took Corregidor back from them. So it was their bodies, really that you could smell. They'd all been removed but the burning flesh was still very much present.

Q. As the Assistant XO to the Deputy Chief of Staff for Administration, what kind of duties were you performing?

A. I was primarily concerned with the returning POWs. All of the prisoners of war--British, Australian, Canadian, American--who had been captured and were found either in China or Japan or Korea, wherever it might be, were funneled through Manila. We had a big camp there. We had a rule that they could not be kept in Manila more than 24 hours. They didn't want any of them being held there to be interrogated by intelligence people, or something like that. They had gone through this for two or three years and we wanted to get them home as fast as we could. It was my duty to follow up to make sure that they got in and they got out. Not an operational duty, but a staff duty. We did it. We managed it pretty well. We had one fellow who was a friend of the General's who had been a Colonel in the Philippine Constabulary. There was a Philippine portion of the American Army before 1941. He got special permission from General Styer to stay on more than 24 hours because he had lived

there and he had buried his silverware and things like that, and he wanted to find out whether he still owned anything. I'll tell you an amazing thing. He had filled a couple of trunks and turned them over to a Chinese. The Chinese, all through the Orient, are the businessmen. Particularly in hardware. This big Chinese wholesale hardware concern had warehouses and he had given them a couple of trunks. He went down to see whether they had anything. There the trunks were standing, unopened, in exactly the place he had put them in 1942. The Chinese were very honest. You could trust the Chinese. You couldn't trust a Filipino. He got back all of that stuff. But he had buried his silver and when he went to look for it, there was a cement block that had been placed over it for a tent or some type of building. He had to get a mine detector to find out where it was. He never did get a reaction from the mine detector. Maybe it was because of the thickness of the cement or maybe it was because somebody had removed the silverware. But, he was there about ten days. He was there the longest of any prisoner of war. Most of them were out by 24 hours. I had a cousin who was a doctor who was captured on Bataan. He had gone through everything, the Death March, prisoner of war camp in the Philippines and then in Japan. When I saw his name on the list, I went out to the camp and got hold of him and brought him to my mess. I messed with the General and about six Colonels. I got permission from the General to let him stay an extra 24 hours. But one of the worst sights I've ever seen was when we made the rounds of the hospitals. Strangely enough, many of the POWs could walk and had no visible defect--broken arms or one leg gone or anything like that. But the lack of food--I saw one British soldier, he had weighed 180 pounds; he was about six feet tall; he weighed 80 pounds. He was just a walking skeleton. You could give him a whole loaf of white bread and it'd be gone in five minutes.

*Q. Were you involved in any way in debriefing the returning POWs or gathering information about what their treatment was like?*

*A. No. We avoided that. We didn't permit it until they got back to Hawaii or the mainland in the United States. They were going to have to go through hospitalization, medical examinations, and everything. There was no need for intelligence then. Our troops had landed in Japan. This was already into October before the first prisoner of war reached the Philippines. I suppose there were some people like LTG Jonathan Wainwright who were probably debriefed. He had surrendered the American troops in the Philippines. He tried to surrender the troops in Corregidor and they refused to accept that surrender unless he surrendered all of the troops in the Philippines. He had to surrender all the troops in the Philippines. He expected that he would be tried as a traitor when he got back to the United States. He was surprised to find that nobody held him responsible. He had no alternative.*

*Q. Did you see some of the abuses that the Japanese had committed against the Filipino people?*

*A. It had all been cleaned up by the time I got there. It was very much in their minds. At Yamashita's trial, you could have had 10,000 Filipinos to testify as to what had happened to them. Actually, I think they had about 200 witnesses, but they could have had an unlimited number. The Filipino's really were maltreated. Yamashita's defense was that the troops stationed in Manila who were responsible in Manila where most of the abuses occurred, were Navy troops. He said that under the Japanese system, while the Navy troops could be assigned to him and he could give them a strategic mission, he couldn't control them at all. He had no disciplinary powers over them. So, he was not responsible for what they did. That may be true. Some*

*of these military organizations have strange systems. But, there was a lot of other maltreatment in the countryside where the Japanese would do what the Nazi's did in Czechoslovakia. They'd just destroy a whole town--all the people in the town and the town itself.*

*Q. What was the reaction of the individuals around you when you heard of the atomic bomb? Did you have any idea what that was?*

*A. Nope. We had no idea what it was. We heard that a big bomb had exploded, and then the second one at Nakasagi. We thought, at that time, that that's what ended the war. It wasn't until later that we found out that the Japanese had approached the Russians to act as go-betweens before the first bomb. The Russians had not conveyed the word to us because they wanted to get into the war so that they could get back the peninsula that they had lost in the Russo-Japanese war and the Kurile Islands that they had lost.*

*Q. So the magnitude of the destructive force of the atomic bomb did not filter down?*

*A. No. When it did, though, I think most people agreed at that time that if they had it to do over again, it should be done. Because, while 60-70,000 people were killed, if we had made two landings as we would have had to in Japan, there would have been over a million casualties on both sides.*

*Q. Hadn't we killed just about as many Japanese when we firebombed Tokyo anyway?*

*A. More. Firebombing Tokyo killed, I think, 90,000 people. In Hiroshima 70,000 were dead.*

Q. What were the events that you were involved in leading up to the trial of Yamashita?

A. As I said before, General Sturdevant, who was my boss, was the Asst. Chief of Staff for Administration at AFWESTPAC. He was the law member of the commission as originally constituted by General Styer. It had five general officers. I think it had three major generals and two brigadier generals sitting on it. MG Reynolds was the president and MG Sturdevant was the law member. I don't remember who the other three generals were. They had fixed up the High Commissioners Residence and the trial took place there. In late October or early November, Yamashita was arraigned and pleaded not guilty. The court then adjourned for fourteen days or something like that, to permit the defense to prepare its case. A few days later, General Sturdevant had his first physical examination since the war began and they found something wrong with him and ordered him back to the United States. Arrangements had been made by the Chief of Staff of the Army that any general officer that came back to the United States from overseas could have a cottage in Hawaii for as long as he wanted, his wife would be flown out to Hawaii, he could go anyplace in the United States that he wanted, and eventually, whenever he wanted to, he could turn up in Washington and report in for further duty. General Sturdevant said, "I don't want any of that. But I want Captain Levie to come back with me." So he wrote a memorandum to that effect. It went to a namesake of mine, General Leavey, who was the Chief of Staff. He put a memorandum on it, denied. When General Sturdevant got that, he hit the ceiling. He said, "I want to be alone. Don't disturb me for the next hour." In longhand, he wrote a memorandum to General Styer. He said, "I'm not taking any of these perquisites that the Chief of Staff has offered. I'm going back by ship to San Francisco. My wife is going to meet me there and we're going directly to Washington.



*But, I do want to have Captain Levie along to be my Aide." It went to Styer directly--not through the Chief of Staff. Styer said, "General Sturdevant's request is granted. Captain Levie will accompany him back to the United States." That's how we left before the next hearing of the military commission and why I didn't hear the rest of the Yamashita trial.*

*Q. Were you actually present for the arraignment?*

*A. For the arraignment, yes.*

*Q. Were you going to remain for the rest of the trial?*

*A. When I had the chance to go back, I didn't say, "General, don't send that to General Styer."*

*Q. Was Yamashita the first Japanese officer to be tried?*

*A. He must have been the first one tried because there'd been no trials--there may have been some trials of lower ranking officers on the Islands for conventional war crimes, but Yamashita was the first major trial. Then Homma was tried in Manila after that. He was the next major trial. He was responsible for the Death March. Then there were trials in all of the islands. The Navy ran a lot; the Australian's ran a lot; for conventional war crimes--setting a prisoner of war afire, for example, or using him for bayonet practice, as was done on some of the islands. The big trials took place in Tokyo.*

*Q. Was Yamashita tried for crimes against humanity?*

*A. No.*

*Q. What was he tried for?*

A. We didn't know about genocide then. He was tried for murder, and failing to exercise control of his men. I have Reel's book. Guy Reel, I think his name is. Captain Reel was one of the defense counsel. He became a Major. He wrote a book in which he said the trial was unfair. A man by the name of Courtney Whitney, who was a Brigadier General also wrote a book opposing what Reel said. He was very close to MacArthur; had been close to him all along. He countered what Reel had said. Since then, another man by the name of Lael has written a book about the Yamashita trial. While he says in some aspects it was unfair, nevertheless, it doesn't go all out the way Reel did. Whitney points out that Reel was sent to Japan to get witnesses for the defense and that at that time he was interviewed and said that Yamashita was getting a fair trial. But after the conviction, he apparently changed his mind. That's something that has been disputed ever since, but so has Nuremburg and so has Tokyo been disputed. You'll have people on both sides whatever happens.

Q. Was Reel a lawyer?

A. Yes. They had about five defense lawyers. They were all lawyers. The chief defense counsel was a Colonel who had been with us in New Guinea and had then gone with us up to Manila. I can't remember his name. He was a very nice person. He was a Pennsylvania lawyer, Pittsburgh I think. He had about four Majors and Captains working for him. One of the things that they said was that the court didn't give them enough time. I made it a practice, when I practiced law, and in the Army too, to never lose a case through a procedural mistake which is unnecessary. When the defense would ask for a month, they'd give them fourteen days. Well, hell, some court's going to say, "Well, that wasn't enough time." And you get a reversal for something that's unnecessary. What difference does it make if

they had given him another week or ten days? There was nobody in any hurry. Nobody was going anyplace. So, I felt that that was a mistake that the court made. But the court was apparently under the impression that it was under pressure from MacArthur to dispose of the matter. Well, I'm sure MacArthur wanted to dispose of the matter. But that didn't mean that they shouldn't give the defense time to prepare.

Q. Colonel, why don't you relate what happened after you got back from the Philippines at the close of WWII?

A. We came back by ship. We landed at San Francisco. I don't remember how we crossed the country. Oh, it must have been by train. We ended up in Washington at the airport. That was the end of November, 1945. My wife had gotten out of the WAACS the day before and met us there. The General had said to me that he recommended that I apply for a Regular Army commission. So when I arrived and reported in at Washington to the AG there, instead of arranging for my discharge, they gave me a 30 day leave. In that period of time, I decided that I was going to stay in. They assigned me to the War Department General Staff; to what was then called SS&P, Service, Supply, and Procurement. It was a G-4 position, but with a different name. I was the executive officer of the requirements division. I knew nothing about what I was doing. We had a hell of a job finding a place to live in Washington. Washington, during the war years and immediate post war years, was just impossible. We finally found a place out in Chevy Chase, Maryland. We were living there and then we found some friends who knew people who were in Puerto Rico doing an economics survey, who had an apartment on Connecticut Avenue. We sublet their apartment. It was like heaven after bouncing around. The hotels would only take you for five days because if they kept you for a week they had to give you a weekly rate. So, five days and you were out of a

hotel. We'd been at about four hotels by that time, before we found a rooming house in Chevy Chase. I worked in the War Dept. General Staff. That was when they created this Army-Navy Alaskan Board, which was going to visit Alaska and review the defenses of Alaska to determine, for example, what had gone wrong, why the Japanese had been able to take Attu and Kiska. We did some preparatory work in Washington, then went to Alaska. We covered all of Alaska in about three months. All but Point Barrow; we couldn't get up there because of a storm. We came back and wrote our report. Then I went back to my regular job in the requirements division of SS&P. We came back in about June or July of '46, and in August of '46, I was offered a Regular Army commission in the JAG Corps.

Q. Before arriving in Washington in November, 1945, had you seen or spoken to your wife since leaving the United States?

A. No. The last time I saw her was about January 1944, when I left New York for San Francisco to go to the reception center there. But, we had managed to maintain good contact with each other. The mail would come in bunches, depending upon the ship. There was no airmail at that time. You'd get four or five letters at once, then you wouldn't get anything for three or four weeks. But there were no complaints about it. Particularly if you used that little blue thing that Europeans still use. They use it for airmail. We used it for military mail. It was one of these things you fold over and it glues itself, so it was very light. They could get probably ten of those for one regular letter on a ship.

Q. What had your wife done during the war?

A. She enlisted right after I went into the Army. She enlisted in the WAAC. Then when it became the WAC, she reenlisted and

stayed in. She was a sergeant. She was in the Air Corps doing air-sea rescue maps. First in New York at some secret location, then at Andrews Air Force Base outside of Washington. When she wanted to go overseas, I said, "Nothing doing."

*Q. Who were some of the other members of the Alaskan Board?*

*A. General Hoag was a Major General and the commander of the 4th Armored Division in Europe. He was the senior member. Commodore Nelson was the senior naval officer. A good name for a Commodore in the Navy. I don't remember the name of the senior Air Corps officer. One of the Navy aviators was Captain Jim Russell. He later became a three star admiral. He ended up in some very big job. Those are the only names that I remember of the members of the Board.*

*Q. Was there some concern about the Soviets being a threat at that time?*

*A. That probably was in the back of the planners' minds, among other things. But I think also it was to find out what we could do to prevent something such as happened during WWII when the Japanese took two of the islands.*

*Q. Do you recall any of the conclusions the Board came to?*

*A. No.*

*Q. You were the recorder for that Board?*

*A. I was the recorder of the Board.*

*Q. What prompted you to stay in the Army?*

A. Well, a number of things. Number one, I liked the Army. I felt like I was doing a job and that I could do a good job. Number two, I knew that if I went back to the practice that I'd had before the war, I was going to have stomach ulcers in about three or four years. Any trial lawyer, in my opinion, is going to end up with something wrong with him. There's too much pressure in trial work. My office did nothing but trial work. My wife agreed. She liked the idea. She had enjoyed her stint in the Army, even though it had been so restricted. We thought it was a good future, and never regretted it.

Q. When did you get your commission as a regular Army officer?

A. August, 1946. I was commissioned as a Captain in the JAGC. I was then a Major AUS, serving on the War Dept. General Staff. I stayed on the War Dept. General Staff for about six or seven months before I went over to JAGC at my AUS rank of Major.

Q. What was your first assignment as a JAG officer?

A. My first assignment was to the legislative branch of the Claims Division. There were two divisions: Claims and Litigation. They were separate at that time. Later they were merged. I was in the Claims Division. I was in the Legislative Branch, which was the branch that wrote reports to Congress on private relief bills. This was prior to the enactment of the Federal Tort Claims Act. At that time, there was no way that anyone could sue the government. The only way they could get compensation was through a private relief bill introduced by their Congressman. It was quite a thing, and still is in some areas where the Federal Tort Claims Act, or the Tucker Act, or the other Acts don't apply. Many Congressmen will introduce the bill, have it printed, send a copy to their constituent, and that ends it. They don't take any further action unless the

constituent asks them to. The committees don't take any action unless the introducing congressman asks them to. So, the thing can die unless the congressman really wants to push it. If he does, he can get the committee to ask, in these cases, the Department of the Army or then the War Department for a report on the merits of the case. When they did that, we would write a report on the merits to tell them whether it should be paid. If we said yes, then we recommended how much they should pay. Normally these always go through the House Judiciary Committee--their Appropriations Subcommittee. Normally, the House Judiciary Committee would take our recommendations.

Q. Were these personal claims against the Army?

A. Oh, yes. All kinds. You'd have a few personal injury claims. I remember one claim from California. A man had built a road to a talc mine. He claimed that the government had told him to build it because they needed the talc. The evidence showed that we didn't even buy talc. But, he was claiming a couple of hundred thousand dollars for building a 25 mile road. That was the type of thing we'd get. There was another case about a fair in one of the California counties. The fairgrounds had all the equipment for when the fairs were on--the concessionaires and all that. The Army used it for a week or two as a reception center. When they came back, there was no cutlery left, no dishes left. So they blamed the Army for all that and there's a claim for it. We'd have an investigation already, usually, which we just had to locate. Sometimes it was difficult. I tell you, some claims will amaze you. We had claims for the explosion of Civil War shells which had been buried. A child would dig them up and they claimed that the shell had exploded.

- Q. You had mentioned earlier about limiting your recommendations in certain cases.
- A. My boss was a man by the name of LTC Tom Rhodes. He was a very, very nice person--easy to work with. I got along fine with him. He was a Mississippi Republican when probably he and his father were the only two Republicans in the state of Mississippi. This was back in the '30s. He had very definite views about blacks. We had an agreement with the Judiciary Committee. I think all of the Departments had the same agreement. If we had a death claim and it was a meritorious claim, we would recommend that the Judiciary Committee recommend the appropriation of \$10,000 to pay the death claim. We'd get a case involving a white, say, an automobile driver who had a run-in with an Army truck and was killed. There was no question it was the Army truck driver's fault, so we would recommend that an appropriation be made in the amount of \$10,000. The next week we'd have an identical case, but the driver was black, and I would write the same report recommending \$10,000. Colonel Rhodes would call me in and say, "Don't you think that's a little bit too much in this case?" I'd say, "Well, Colonel, you remember the Smith case last week. He was earning \$3,000 a year and we gave \$10,000 to his widow. This man was earning \$3,500 a year, and I'm recommending \$10,000 to the widow." So he'd say, "Well, let me think about it." Then he'd put it in the bottom drawer of his desk, and that would end it until he'd go on leave. Then I would sit at his desk, take out all the files in the bottom drawer, sign them, and send them forward. He would come back, open the drawer, and find it empty, and he'd never say a word to me.
- Q. At that point in the JAG Corps, how many general officers were there and what was the force structure like in Washington?



A. In Washington we had the two major generals (TJAG and Deputy), and we had, I can only remember one BG. We didn't have such a thing as Asst. Judge Advocate General for Civil Affairs, or Military Justice, or anything like that. Connelly was the Asst. Judge Advocate General for Military Justice for awhile, and he was a Colonel. He was never promoted, as a matter of fact, even though his uncle was Tom Connelly, the Senator from Texas who was a pretty powerful man. Maybe he didn't get along with his uncle, I don't know. I can't remember any other generals. Green and Hoover were the two major generals. There was one BG, but I don't remember who it was. It was all novel to me. I didn't even know the organization or anything about it. It was my first contact with the JAG Corps. I should mention that when I was in New Guinea, there were many cases brought against officers who had been found to fail in combat. Sometimes it was true. Sometimes it was because of the commanding officer--their commander. We had a board sitting at the headquarters in New Guinea, and on a number of occasions I was appointed as Defense Counsel. I was successful in several cases, primarily because the Colonel who had brought the charges was a psychotic, himself. The Staff Judge Advocate asked me to transfer to JAG. I said, "Fine. I'd be happy to transfer to JAG if you'll send me back to the University of Michigan to the JAG School." He said, "Oh, no, no. We want you to transfer in place. We'll just change your insignia here and take you into my office." I said, "Nope. I'll remain a coast artilleryman then."

Q. How long did you stay in Claims Service?

A. I was in the Claims Division from about May or June of 1947 to about the end of '48--about a year and a half. Then I was told I was going to the Command and General Staff College in the summer of '49. I didn't want to be labelled as a claims man for the rest of my career, so I told personnel I was going out in

*the field and I had no experience with military justice matters, and I asked to be assigned to military justice for the remaining four or five months. Instead of assigning me to military justice, they assigned me to a Board of Review. So I spent the last four or five months at the Pentagon on the Board of Review.*

*Q. What exactly did the Board of Review do?*

*A. We were what was called the long holding board. There were about five Boards of Review. We were the long holding board, which meant that any case where an individual had a sentence of ten years or more, came to us. We had to review it and we had to write an opinion in the case. I did that until about June or July of '49, when I left to go to the Command and General Staff College.*

*Q. What was the appellate structure of the Army at that point?*

*A. After the trial, it went to a Board of Review, and from the Board of Review, to the Judge Advocate General. That was it. The Court of Military Appeals only came into existence with the Uniform Code of Military Justice.*

*Q. Why didn't you want to stay in Claims?*

*A. Well, I enjoyed the work I was doing there. That was no problem. But I learned, by talking to people, that Claims was very much like Patents or Real Estate. Once you got into it, you never got out of it, because you were considered to be an expert in a specialized area. I didn't want to spend the rest of my career doing nothing but Claims. So I didn't want that to be the last entry on my personnel card. And, I needed some military justice background because someday I was going to be*

*in the field and I had to know something about military justice.*

*Q. Today, very few JAG officers get to go to the Command & General Staff College. You had only been a member of the JAG Corps for about a year and a half. How did you manage to get a slot?*

*A. We had four every year. What happened was they had an Army regulation that provided that on the basis of your wartime service, you could get constructive credit for the various schools. For example, if you were an infantryman and had been in combat, you'd get constructive credit for the advanced schools. I had been on the general staff in the field and general staff at the War Dept. so I asked for constructive credit for the Command & General Staff College. The personnel office called me in and said they were going to send me to the Command & General Staff College. I said, "What are you trying to do--get out of making a decision as to whether I merit constructive credit?" They said, "No. We'll give you constructive credit, but we want you to go too." So I said, "Alright, I'll go." I had no idea what Command & General Staff College was. While I had learned things like map reading when I had gone through basic and OCS, that had been a number of years before and I hadn't seen a map in the interim. So when I got to Leavenworth, I had my troubles cut out for me. For about the first month I think I burned the midnight oil every day trying to learn what, to the line officer, was routine.*

*Q. What was the curriculum like at the Command & General Staff College?*

*A. They had had a lot of short courses during the war. They had just reinstituted the one year system. They divided the class up. After about six months of everybody taking the same thing, you then specialized in personnel, operations, intelligence, or*

*logistics--the four G's. The JAGs were assigned to personnel, which was logical. So, for the last four or five months of the course, we specialized in personnel work.*

*Q. When you were at the Board of Review, did each officer review a case, or did the Board review a case as a whole?*

*A. Yes. Every case was reviewed by all three members of the Board.*

*Q. What were the requirements before a case would be reviewed?*

*A. Just that the sentence had been received.*

*Q. Did that include just general courts-martial or also special courts-martial?*

*A. Specials did not go to the Board, no. Someplace in here I have some of the opinions that I wrote when I was on the Board of Review. But, it was the same thing that the Supreme Court does. A case would come in and the Chairman of the Board would assign it or take it himself. You would review it and write your proposed opinion. Then you'd pass it to the second man and he would read the record and read your review. If he agreed with it, he'd concur. If he agreed with it but felt that there were some things that should be emphasized that weren't or something that was emphasized that shouldn't be, he'd talk to you about the opinion. Then it would go to the third member, who'd do the same thing.*

*Q. Do you recall reviewing any cases where the death penalty had been imposed?*

A. I don't recall any death penalties at that point. See, this was in 1948. By that time all the wartime cases were long since gone. I don't remember any death cases. We had a lot of 30, 40, and 50 year cases.

Q. Then you would review it and come up with an opinion for the Judge Advocate General?

A. No. We'd review it and that would end it unless someone asked for further review. Then it would go to the Judge Advocate General. As I recall, when it went to the Judge Advocate General, Military Justice would review it and make a recommendation to him.

Q. Did you have the authority to overturn cases?

A. To reverse them? Oh, yes, we did. In which case we would send them back for a new trial or dismissal. That reminds me of something that happened much later when I was at Leavenworth as a Staff Judge Advocate. It's something that there should be a record of. When someone was convicted of an offense, say, given five or ten years in Europe, the case would be sent back to Washington for review. This is after the Uniform Code was in effect. The prisoner, the man who'd been convicted, would be sent to the disciplinary barracks at Ft. Leavenworth. If the Board of Military Review reversed and ordered a new trial, they would send that to Europe to the command who had tried it and say, "Do you propose to retry this man?" Europe would invariably say no. Well you had cases that involved politics--when I say politics, I don't mean in the case--but a soldier had raped a German girl, for example. We tried the case and it gets a lot of publicity. The accused got a 30 year sentence. The case comes back here and we reversed it. That looks like hell to the Germans. Then they would notify me, the Staff Judge

Advocate at Ft. Leavenworth, because the prisoner was in my custody. Invariably, I would say, "Well, if I have to, I'll try him." I would try him on the record. We had no witnesses there. We would have to just use the record of the first trial, omitting whatever error had occurred that called for the reversal. I would say that nine times out of ten we got a second conviction. I thought that as a matter of policy--maybe policy is a better word than politics--as a matter of policy, in that type of case, the jurisdiction in the foreign country should be compelled to re-try the case, because it looks like we're getting the publicity there and then bringing them back home and turning them loose.

Q. Do you recall some of the problems or the congressional interest that resulted in Congress amending the Manual in the early '50s?

A. There was a lot of publicity about command influence, which was warranted in many cases. There were a lot of commanders who did nothing but tell their G-1 to publish an order and put on whoever was on the roster for the court, and took no part in it until their SJA came up with a review. But you did have bad apples; people who did try to influence it, like my first colonel in Rhode Island. I think that was one reason. And I think that the services themselves felt that there was a requirement for updating. After all, our Articles of War, basically, dated back to the Revolution. We adopted the British Articles of War. The Brits had adopted the Swedish Articles of War. So you had a set of rules that really dated back about 300 years. They'd been updated a little bit, but not substantially.

Q. Do you recall any of the major changes that came about with the adoption of the new rules?

A. Well, let's see. I think they were far more explicit, less general, outside of Articles 15 and 138. But in the Articles of War, you had two articles that were very similar to those. I think most of it was procedural. Substantively, I don't know that any offenses were changed. The wording might be changed to make it more clear cut, but that's all. In 1951, when the first amendment to the Articles of War was adopted, I was in Tokyo and the JAG office had to give a series of lectures to all the officers in the command. So we would have an auditorium of 400-500 officers listening to this series of lectures. There must have been 10 or 12 lectures. We really covered the entire Code. I wasn't there when the Uniform Code came into existence, but I assume they had to go through the same routine. That was two years later.

Q. What happened after your assignment to the Command & General Staff College? Where did you go from there?

A. Colonel Hickman had gone to become Staff Judge Advocate in Tokyo. He had been my last boss in Claims. When I left to go to the Command & General Staff College, he was going to Tokyo and he said, "Would you like to come to my office when you finish at the Command & General Staff College?" I said, "Yes." So I got orders for Tokyo, for GHQ Far East Command. My wife got orders to travel concurrently. We were driving across the country when the Korean War broke out. I guess it was June 25, 1950. When we got to California, we discovered that her orders had been cancelled, or suspended, and that I was going alone and she would have to remain in the United States. She didn't like Los Angeles, so we drove up to San Francisco which she loved. I left her in San Francisco. I got on a ship and that was wonderful. I was going to have an ocean ride. We went up to Oregon, I guess it was, and they debarked us and put us on a plane to fly. The pilot was very reassuring. He said, "This

is a WWII weary plane we're on." We flew to Hawaii; from Hawaii to Christmas Island; Christmas Island to Johnson Island; Johnson to Wake; and Wake to Okinawa. I don't know, but I think we could have gotten there by ship faster. When I got to Tokyo, General MacArthur had put out a directive that any replacements coming from the United States were to go directly to Korea. Colonel Hickman had two people coming to the office before Korea occurred, and he was able to persuade the Chief of Staff that we were not replacements; that we had been assigned to his office before Korea occurred. So we were able to stop in Tokyo and join the office there. I was the senior staff officer in war crimes; Bill Smoak was the Chief of War Crimes. Then Bill Smoak was assigned as an SJA of a division, so I became the Chief of War Crimes. About a day after I got to Tokyo, I was promoted to Lieutenant Colonel.

- Q. You mentioned Colonel Hickman. How did he come to be in the JAG Corps?
- A. Colonel Hickman was a West Pointer, a Regular Army officer who had been sent to Harvard in about 1938 or 1939. He had finished two years at Harvard Law School when the war broke out. So they took him out of school and he served during the war as an infantry officer, basically. So he did not serve as a JAG during the war. When the war was over, they sent him back to Harvard to finish his third year of law school. When he finished it, he came to the Pentagon to the JAG office. He was about the third Chief of Claims that I had while I was there. Mikelwaite, was the BG. He later became a two-star, but at that time he was a BG. Mikelwaite was acting for awhile, Connelly was acting for awhile, Colonel Wolfe was acting for awhile, and then Hickman. So we had about four Chiefs of Claims, or Acting Chiefs of Claims in the year or so that I was there.



Q. So, it's now 1950. You've gone from a Second Lieutenant in 1942 and now you're a Lieutenant Colonel?

A. A very junior one to the extent that quarters, in Japan at that time, were issued on the basis of your date of rank. My date of rank was so low that I was put in a building that had been a Japanese Officer's Club. It had not been a quarters before, but with the influx of new people, they took this club over. See, this was still during the occupation of Japan. All we had to do was tell the Japanese government we wanted something and we got it. The Army had taken this club over and I was billeted there. Every week they would have bids for quarters. Every week I would bid for quarters in the Dai Ichii Hotel, and finally I moved into the Dai Ichii Hotel. The Dai Ichii Hotel was built when the Japanese were to have the Olympics in 1940, I guess. Because of the war in Europe, they didn't have the Olympics. They built it with the expectation that the athletes would use it during the Olympics and then it would be a hotel. Well they had built it on the basis of Japanese size. At that time, the Japanese were maybe 5'4", 5'5", or 5'6". You know, they've gained a couple inches since the war. You had to duck your head when you went in the doorway. I could sit in my room at my desk and touch any wall. But it was the center of things and much more convenient than this other place that I had been in. By this time it was September. In October, the JAG Corps had a meeting in Charlottesville. The staff judge advocates all headed for the United States, and they needed people to replace them in Korea, temporarily. So I went to Korea about October 1st and I stayed there until about November 1st, I guess, during which time I sat as a law officer or law member. I sat on general courts-martial for about a dozen cases in the thirty days I was there.

*Q. What was happening in the Korean War at this point?*

*A. We had made the landing at Inchon. We had Seoul back. As a matter of fact, I stood on a bridge in Seoul and watched bodies come down the river from up above. When we had taken Seoul, it was a battered place. There was very little of the town left. We had our headquarters in one of the universities. Even though it was October, it was cold. If you had to go out during the middle of the night, you had to go down three flights of stairs, out of the building, out in the open, walk about 1/2 block, and up some more stairs to the nearest latrine. That was when I learned not to have to get up during the night. We were advancing up north all along then. The troops were up north of Seoul by that time.*

*Q. You said you replaced Colonel Smoak?*

*A. Bill Smoak. There was a Marion Smoak and a Bill Smoak. They were brothers. Both JAGs.*

*Q. And you were Chief of the War Crimes Division for the Far East Command?*

*A. Yes. We called it the United Nations and Far East Command at this point, right after Korea started. We had two missions: number one, to clean up the Japanese war crimes situation, and number two, to prepare for the Korean War crimes. On the first part, the Japanese, the office had sent forward a review of one of the Japanese cases that had been tried a year or two before, in which there were some death sentences. The cases would be tried under the jurisdiction of Eighth Army, which was located in Yokohama. If there was no death sentence, the commanding general of Eighth Army could give final approval. If there was a death sentence, then they had to review it. If he approved*

it, then it had to come forward to MacArthur's headquarters and General MacArthur had to approve it. This case went forward to General MacArthur with a recommendation for the death sentence. I don't know how many people were involved in that case. As I say, it was all done when I got involved. MacArthur saw it and he was very much perturbed because here we were going to execute Japanese when we were using Japan as a jumping ground for the defense of Korea. Even though it was an occupation, that was not exactly an occupation use. So he told his chief of staff to find out how many more cases like this there were. We checked the records and we found there were three more cases involving death sentences that had reached GHQ. So the Chief of Staff, General Hickey, said, "I want all three cases in here within 30 days." We had what we called a Board of Review. Colonel Hickman created it for the purpose of disposing of those cases, which consisted of himself, Major Toxey Sewell, and myself. Toxey Sewell later became a professor of law at the University of Kentucky. This was November, and we went to a cottage GHQ had out in the country. We reserved the cottage and we went out there over Thanksgiving. We were the only people in the cottage other than a couple of Japanese servants. We took the three cases. Each of us took one case, read the record, and wrote a review and recommendation. When we had done that, we did just as they did at the Board of Review. We passed it to the next man, who reviewed the second case, and then with the third case. Well, we recommended that some of the sentences be cut down--some of the death sentences be changed. But in each case, there were some death sentences we recommended still be carried out, knowing how MacArthur felt about it, but we were giving our legal opinion. Legally, we felt that these individuals deserved the death sentence. Colonel Hickman then wrote an endorsement on each case, in which he said he agreed with the decision. He was part of the Board of Review and he had concurred in the decision, but under the circumstances, he

felt that as a matter of policy it would not be good to impose the death sentences. He recommended that so-and-so be reduced to fifty years, and so forth. Those recommendations went up to MacArthur and he approved them all, because there were no death sentences involved. Those people were in Sugamo Prison. Later, when I had the International Affairs Division in Washington, I had the last war crimes branch in the government. The State Department had terminated their involvement. Justice involvement had been none. So the Army was the only one that had one. During that period, the State Dept. negotiated with Germany and Japan to turn the custody of all the war criminal prisoners over to the respective country, and we got out of the war crimes business.

Q. The crimes that you were investigating, were they crimes against American soldiers?

A. You mean the Japanese? Two of them were. Two of them involved maltreatment of prisoners of war in prison war camps. The one that I wrote the review on involved maltreatment of Chinese laborers who had been brought from China involuntarily to work in coal mines and other mines in Japan. They had been maltreated not only by the military, but by the civilian supervisors of the mine. On that commission, there was a Chinese officer who had served as a member of the commission.

Q. Were the individuals Japanese soldiers or civilians?

A. Some were soldiers and some were civilians. Now, that was one aspect of the war crimes business in Tokyo. The other aspect was preparation for Korea. Within a week or two after the fighting began, when we took back some territory, we would find American soldiers with their hands wired behind their back and a bullet in their head. They had obviously been executed. So

we began to investigate these cases--find out what North Korean unit had been there who might have captured them. We interrogated prisoners of war as to whether they were members of the unit who had done it--and a surprising amount of information became available. But we had a legal problem. Who was the detaining power for these prisoners of war that we planned to try for these acts? I was not there when the decision was made. I would say that the detaining power was the country that captured them. If United States troops captured them, the United States was the detaining power. If the ROK Army captured them, then the ROK was the detaining power. Later, when we had other troops like the Turkish Brigade, if the Turks captured them, or the Thai Brigade, if the Thais captured them, they were the detaining power. Now they could transfer custody to the ROKs or to the U.S., whoever was going to run the big prisoner of war camp, because the Turkish Brigade couldn't run a prisoner of war camp for 50 or 100 prisoners. But they would still have been the original capturing power and the original detaining power, and they could try these cases. Or, if they were turned over to us under the Universality Doctrine, we could try these cases. But the decision was made that the United Nations Command would be the detaining power. Well the United Nations Command is not a sovereign power. It has no laws. So that was when the office that I was in--this was done, again, before I got there--they began issuing Articles Governing United Nations Prisoners of War.

Q. Who began issuing these Articles?

A. GHQ. This is General Headquarters, United Nations Command. Articles Governing United Nations Prisoners of War. There were about four or five sets--here's another one--Investigation and Prosecution of War Criminals. There's another one that deals with substantive crimes, and another one that deals with the

procedural trials. We had said that we were going to comply with the 1949 Geneva Conventions, even though we had not yet ratified and nobody else involved in the fighting had ratified them. I felt that under that 1949 Convention, we were acting improperly. We had no right to say that the United Nations Command was the detaining power who would try these people, and then issue new laws. But, of course, it had already been approved by the time I got there and no one was going to tell General MacArthur a mistake had been made, so it went on that way. The prisoners would gradually move to Koje Do, which was an island off the southern coast of Korea, where in the end I think we had 60-70,000 prisoners of war on that one island. We had isolated about 200 potential defendants in war crimes trials who were in a compound by themselves. Elsewhere we had isolated about 200 other prisoners of war who were witnesses and had given us affidavits as to what they had seen or what they had been compelled to participate in. When the armistice negotiations were concluded, all prisoners of war had to be returned so that included the 200 potential defendants and the 200 witnesses. There were no war crimes trials arising out the Korean hostilities although there should have been. There were serious atrocities that were committed.

- Q. The rules that the UN Command came up with, where did they get the substantive law for those? From the Geneva Conventions?
- A. No. Most of them were based upon our Articles of War at the time. The substantive rules didn't concern me too much. They were pretty uniform--death sentence for murder in the first degree, premeditated murder. But what bothered me was the procedural rules for the establishment of the courts, things like that. The 1949 Geneva Conventions say you will be tried by the same court that would try members of your own force. Well, UN courts would not have tried members of our own force.

*But I think the way they got around that was that the State Department's statement had said we will comply with the principles of the 1949 Geneva Conventions. They said this was the nitty gritty, this was not principle. I guess you could argue that.*

*Q. So while you were in Japan, it was still under American occupation.*

*A. Until May 1, 1952.*

*Q. What was occupied Japan like?*

*A. A wonderful place to live. We had three servants for a total of about \$60 a month. The servants loved it because they were eating better than they had eaten in ten years.*

*Q. Was the occupation very onerous, or was it really just an occupation in name only?*

*A. Well, it was not onerous, no. For example, we had the bidding system on date of rank also for quarters for married couples. While I was in Korea for the Armistice negotiations, the announcement was made that if you had quarters for your family, and the engineers approved the quarters as being satisfactory for our standards, you could bring your family over on your own. I had made friends who lived in Tokyo. One in particular was an American citizen. He was a German who had left when Hitler came into power and had gone to Tokyo to live. He'd been in business in Tokyo. When the war broke out, because he was an American citizen, he was interned. When the war ended he had gone back to Tokyo and reopened his business which was importing/exporting. He had this big house. His family, a wife and two children, were back in the United States so the kids*

could go to an American school. He wrote me a letter and said he'd seen this notice in the Japanese newspaper that publishes in both Japanese and English. He said, "If you want my house you can have it. My family's in the United States." So I hot footed it back to Tokyo and had the engineers inspect the house. They approved it. I called Blanche in San Francisco and said, "I've made a reservation for you on such-and-such freighter. You're sailing in four days." So she came over and lived in that house while I was in Korea. I'd come back every two or three weeks, but most of the time I was away in Korea. Now you see, these quarters, the engineers would inspect them. If they approved them, some part of the Japanese government would be notified and they would notify the people that lived there that they had to get out and find another place to live; or maybe the government would find them a place to live. The Army occupation would take over the house. That was what happened. When my wife got there, she started bidding every week. She'd go around, look at the houses that were available, and bid. Finally, she got one of these Japanese houses. So she moved out of the house of this friend of ours, and into regular quarters. Of course, we weren't paying any rent to him. But, it was very nice. As I say, at least when I got there in 1950, the occupation was not onerous, excepting for real estate.

- Q. Had they cleaned up the damage to Hiroshima and Nagasaki?
- A. Nagasaki I visited and saw no evidence of anything. Hiroshima I never visited. Tokyo, which was damaged as bad as those cities, there was no sign of it. Now there may have been in some of the outlying areas that I never reached. But in the areas that I was in--my house was probably eight or ten miles from the center of town, so I'd go through a lot of areas going different ways every time--I saw no evidence of it. It had all been rebuilt. Of course, the housing, we would say, is flimsy-



paper windows, for example, and all wood, nothing but wood. That's why they burned so easily. The house we had was really a western-style house, excepting that in the bedrooms you had tatami on the floor. You didn't have wooden floors.

Q. You had what on the floors?

A. Tatami. It's a woven straw mat that has some sort of a filling. It's used as a mattress or as a floor in the bedroom. As a matter of fact, that's why you take your shoes off when you go into a Japanese house, because you're going to walk on that and people are going to sleep on it.

Q. So you were in Tokyo and Colonel Hickman called you to pack your bags one night.

A. Yes. I was just about to become legal adviser of the Military Government section, which was the section that dealt with the Japanese government--the occupation that dealt with the Japanese government. This was, I guess, July 9, 1951. Two of us were to be legal advisers, a civilian in the office and myself. We went over to confer with the head of the division and spent two or three hours with him while he was briefing us on things and giving us material to read. I got back to the JAG office and the secretary said, "Oh, Colonel Hickman's been looking for you all over. He wants to see you right away." So I went in and Colonel Hickman said, "Go home, pack your bags, and be at the airport at 8:00 tomorrow morning." I said, "Where am I going?" He said, "You'll find out. Include in your bags a dress uniform." Now, this was July, 1951 so we were wearing the light uniform. This was in the days of brown uniforms; no greens. We went over to Korea on the 10th of July. That was the first day of the negotiations. Apparently, it was expected that we would negotiate for a week or two and then have a signing.

That's why we had the dress uniforms. Well, six weeks later, we hadn't even agreed on an agenda. So Colonel Hickman had to go back and run the office. I stayed on as the JAG there--as the draftsman of the armistice agreement. Which was a chore because the negotiations were conducted so slowly. Number one, let me point out that the Communists tried to win the battle on the argument over the agenda. For example, one of the items to be discussed was the establishment of a military line of demarkation. Well, that's fine if you have it that way; but their proposal was the establishment of a military line of demarkation at the 38th parallel. Well, if you take that on the agenda, what are you going to discuss when you get to it? The decision has already been made. But they'd try to win the battle on the agenda. We discovered that very quickly and that was why the arguments went on for so long. We said the agenda is just a list of items, not decisions, so we're not going to agree to anything that predecides what will be the subject of discussion. So it took us, I don't know, a couple of months just to get an agenda. Then we started talking on the items of the agenda. Well, when you talk about, for example, a cessation of hostilities, we'd agree that there will be a cessation of hostilities twelve hours after the final signing of the armistice agreement. Well that's fine, excepting that you've got to put that in writing and you've got to have the words that cover all the contingencies. That would be my job. The negotiators would agree on the principle, then I would have to draft articles that would implement that principle. We would draft them, then we would go back a day or two later, and say, "Now we have agreed on the item of cessation of hostilities. Do you have a proposal as to the exact wording for that?" Invariably, they would say, "We would like to hear your proposal." Then we would give them our proposal. They would find something wrong with it, usually something minor, and make the correction, a change in wording, then say they would think

about it. What they were really doing was going back and radioing Moscow and getting approval from Moscow. Then they'd come back a day or two later and say, "We agree to the wording that we have proposed and that you have accepted." You see, now that they had made a one word change in it, it was their proposal. Well, sometimes these changes would be changes of substance and then we would be in a new argument. I would write in English, of course. Then we had a Chinese interpreter and a Korean interpreter. They would translate it into their languages because on the communist side there were four North Koreans and one Chinese. The Chinese, Chai Fang I think his name was, was really calling the signals even though the senior North Korean was usually the one that did most of the talking. As I say, they had the Chinese and Korean interpreters working for us. One was a warrant officer and one was a lieutenant. The Korean was an American lieutenant whose father had been president of the university in Korea. He had lived there and that is why he spoke Korean fluently. The doorbell had rung, his mother had gone to the door to open it, and the Communists shot and killed her. This was a year or so before the war. The Chinese interpreter was a second generation American citizen of Chinese derivation who was a warrant officer. They were both excellent. They told me that they had a new system. What they would do was when they translated a proposal, they would make an obvious error in grammar or in selection of a word. Of course, the Chinese and the Koreans would jump on it because it would stand out like a sore thumb. They knew it; that was the idea. And they would correct that, and then they would accept it without making any substantive changes. But they had made a correction; they had shown the dumb Americans that they didn't know how to speak those languages.

Q. How was it that Panmunjon was chosen as the site for the armistice negotiations?

A. Well, originally it wasn't. When the liaison officers went over on July 10th and talked to the North Korean liaison officers, they had agreed on Kaesong, and for about two months we went to Kaesong. Kaesong was behind the communist lines and we would fly up there. We had helicopters, but the press didn't. One day the press was going up in a convoy and the North Koreans stopped them. They had been coming up before, but the North Koreans stopped them and turned them around and made them go back. When we discovered this, Admiral Joy said, "Come on. We're going back." We got into the helicopters and flew back to Munsan-ni where our base camp was, in what they called the apple orchard. Joy sent a message to the senior North Korean that we would not return until the press could accompany us. So for about a month we didn't have meetings of the two delegations until finally they agreed that the press could come up. When they did that, Joy called in Jim Murray, the Marine liaison officer, and he said, "What was the name of that place you met with the liaison officers on July 10th?" Murray said, "Panmunjon." Joy said, "That's the place. Write a message to the North Korean senior delegate that from now on we want the meetings to be in Panmunjon. We want it to be a neutral zone--nobody having control over it." This way the southern half, we had access to, and the northern half, they had access to. Within the five mile radius from the center of Panmunjon--which was nothing; there was one broken down barn there; that was all that was left--that way nobody could stop either side from having whoever it wanted to come in. So the Communists agreed to it. We put up some tents temporarily, and eventually it became more elaborate, and now it's quite elaborate. I was there some years ago and you wouldn't recognize the place. It looks like New York City or something. Not quite, but almost. From then on the negotiations were at Panmunjon. The neutral zone idea caused a lot of problems because about every other

day, there would be a charge that our airplanes had violated the neutral zone or somebody had violated the neutral zone. One of those pictures on my wall is a case where the liaison officers weren't available so Admiral Joy designated me as the investigator to investigate one of these complaints that we had bombed the northern part of the neutral zone. So we go up there and they show us the bomb that had dropped and hadn't exploded. You'll see an Air Force officer with me in the picture. He looked at it and he whispers in my ear, "That's a wing tank." What they had done was dropped a wing tank. The Communists didn't know what it was, but it was so rusted that it must have been on the ground for six months before they moved it into the neutral zone and then said we had bombed the neutral zone.

- Q. Who were some of the members of the first American delegation that went up there to deal with the Chinese and North Koreans?
- A. Admiral C. Turner Joy was the senior delegate. He was a Navy type, but he was not considered to be representing any of the services. The Army rep was General Hodes. The Navy rep was Rear Admiral Ruthben D. Libby. The Air Force rep was a Major General whose name I can't remember, but he had been my wife's boss as a Colonel when she was in the WAACS in New York for the Air Corps. The Korean, who was the fifth member, was Major General Pak Sun Yop. Hodes became a Four-Star General. Libby became a Three-Star Admiral. The Air Force general became a Three-Star. Pak Sun Yop became a four-star and became Minister of Defense of Korea. So it was a high level group. I would say that while we had good successors in some instances. For example, General Hodes was excellent. He was replaced by a Major General who was not too good because he could not talk extemporaneously. Libby was replaced by the Admiral who became Chief of Naval Operations, Arleigh Burke, who was excellent. I don't remember who replaced the Air Force General. Pak Sun

*Yop was replaced by General Yu, who was excellent. The South Koreans never talked. They allowed us to do the talking because we talked in English. They didn't want to talk in Korean because the North Koreans would have jumped on that and insisted that everything be done in Korean. So they didn't talk at all. But they participated in the delegation meetings where decisions were made; the decisions were made in Washington and released to the press before we got them. That was a sore point.*

*Q. What was the language that was talked at the table? English?*

*A. We talked in English. It would be translated into Chinese and Korean. They talked Chinese and Korean, and that was translated into English.*

*Q. Were you the only judge advocate from all the services?*

*A. Yes. At that time, I don't think the Air Force or the Navy had any JAGs in Korea. Now, we did because the Eighth Army had JAGs. Of course, they had them in Tokyo. I came from Tokyo. I was from GHQ. But I was the only one there for the whole time; the only lawyer. But we had constant turnover. Staff, also. The two liaison officers and I were the permanent members. The other members of the staff would change from time to time, and our Chief of Staff changed from time to time.*

*Q. You were talking about decisions being made in Washington and finding out about it in the press.*

*A. What would happen was, you know, when you're negotiating you're going to ask for the sky and then you'll be willing to take maybe the stratosphere or the ionosphere, or something down lower. So you get a position, number one, that you're going to take; a fall-back position two; and a fall-back position three.*

You hope you don't have to go to three and, if you're lucky, you don't have to go to two. Well, we'd go to meetings and we would present position number one, and they already knew what our position number three was because somebody had given it to the Washington Post. It had been published there and the Russian embassy had sent it to Moscow and Moscow had sent it to them. Well, that's a hell of a way to negotiate, when your opponents know all your retreat positions. That would happen again and again. There's a professor of law at Columbia University, Louis Henkin. He wrote a book called "How Nations Behave." When I came back, he was in the State Department, and he was the man who had been handling the Korean armistice negotiations for the State Department. So when I came back and went to Washington, the first time, Dick Baxter--did you know Professor Baxter? He taught at Harvard and then he became Counselor of the Department of State for a year, and then he became a U.S. judge on the International Court of Justice. He died a few years ago of cancer, very suddenly--Dick Baxter had been the last person in the International Law Branch of the Military Affairs Division in OTJAG. Then he had gotten out of the Army and he had gone to the General Counsel's Office of the Department of Defense. That's when the International Affairs Division was created, and Bob McCaw, who was the head of Military Affairs, was acting chief until I got there from Leavenworth. Well, when I got there, Dick Baxter called Lou Henkin and said that I was there and he knew Lou Henkin wanted to talk to me. So we went out to lunch and talked about the negotiations. I told him that the worst part of the negotiations were State Department leaks. He agreed. He said that had happened again and again, and they had never been able to trace the leak. It was probably a pro-communist there. I shouldn't say that because he wasn't leaking it to the Russians directly; he was leaking it to the Washington Post. The Washington Post would publish it and everybody knew how we were going to negotiate the next day.

Q. You said originally the negotiations started in Kaesong. What was that like?

A. Kaesong was some town. The negotiations were conducted in a permanent building. They had a long table and the five members of our delegation and the five members of their delegation would sit opposite each other. It was covered with a green cloth like a pool table cloth. They had flaggons of wine, which we never touched, and I don't think I ever saw them touching it either. I think that probably the same wine stayed on the table for a month. Every night, we would leave a package of cigarettes open on the table, and the next day it would be in exactly the same position that we had left it in. We wanted to see whether anybody would take a cigarette or not, but nobody ever did. When we first got there, Admiral Joy discovered that he was looking up at the North Korean, who was a tall man. He was over six feet tall. But then we discovered that the chair had been cut down to make Admiral Joy look up to him. We soon took care of that. We provided our own chairs. They were hard times because fighting was going on at the same time. That's what Joy's diary was called. You know, he wrote the one book called "How Communists Negotiate." His diaries, which were published I think after his death, just eight or ten years ago, was called--I just had it and I've forgotten it now. I'll think of it again. But, it dealt with that problem of negotiating with the Communists also. It's in the title. As I say, they would never make a suggestion. We didn't know whether it was because they had no imagination or whether it was because they couldn't make a suggestion until it had been approved at Pyongyang and Moscow. But whatever it was, we could not get them to make any suggestion. They always aped whatever we did. I say in that article, you had to walk from where the helicopters landed into the building at Panmunjon. Well, that was mud. It was nothing



but a country site. If it rained, you'd have a lot of mud. So we brought gravel and put it down. They brought up gravel and put it down on their side and painted it white. When it was getting cold, we had sentries there. We put up a sentry box for our sentry, which was just painted white or some normal color. They put up a sentry box and painted it like a barber pole, with stripes on it. So whatever we would do, they'd do the same thing, but they'd try to make it a little better. But they never did an original thing of their own. They never gave us an opportunity to copy them.

Q. The article that we're discussing is in the March 1965 St. Louis University magazine, and it's called "Across the Table at Panmunjon," by Colonel Levie. In the article you talk about the Communist negotiators trying to deliberately anger the American side. Do you want to talk about that?

A. Yes. One good example that got me mad, and of course I was sitting in the second row so I wouldn't talk, but at one point the North Korean general said, "You Americans fought the Japanese for four years and couldn't beat them and the Russians fought them for four days and defeated them." I got annoyed about that. The staff used to write papers for the delegates to deliver. We'd give the papers names to identify them, then when we'd have a meeting of the delegation and staff, Admiral Joy would say, "Alright, let's discuss Operation Spade," or something like that. So I wrote a paper called "Let's Call a Spade a Spade." I really laid it out and I told them what liars they were; that they knew damn well that the Russians knew that the Japanese had wanted to surrender and hadn't notified us; that was why the Russians went into the war because they wanted to gain territory and not because they had any other reason. It was presented at a staff meeting, and much to my surprise, it was approved. But Admiral Joy said, "Fine. We'll deliver

it, but not tomorrow. You go down to Pusan and see Ambassador Muccio," who was the U.S. ambassador to Korea, "and get his approval." So I take a cub plane and fly down to Pusan the next day, see Muccio and his political adviser, and they say, "Wonderful. Why haven't you been doing this all along?" So I fly back to Munsan-ni and go in to see Admiral Joy and he said, "Well, we can't use it now because now it's detente. All is honey and roses so we don't want to stir up anything." So, it died. But that was the sort of thing they would say. They'd make ridiculous statements like that in order to goad you because they felt if you lost your temper, you might say something that you didn't intend to say and they might get some information that they wouldn't have had otherwise.

Q. In some of the film clips from that period of time, and some of the negotiations since that, the Chinese always appear to be extremely stonefaced. Was there ever any humor at the negotiations? Any jokes or anything like that?

A. No. And they all wore uniforms with no insignia, so technically, they were all comrades of the same level. But the perks were certainly different. When I was writing a book on prisoners of war, I checked and I found that the difference between the pay of a four-star Russian General and a buck private was something like twenty times greater than the difference of pay between a four-star American general and a buck private in the United States Army.

Q. Was it extremely frustrating dealing with the Chinese and North Koreans?

A. Very. Progress was so slow. That's right, "Negotiating While the Fighting Continues." That's Joy's diaries. You knew people were being killed. If you could get this thing done tomorrow

and signed, the killing would stop. You got nowhere.

Q. Did the line down the middle of the table come later, or was that part of the games that were played from the very beginning.

A. That was part of the games, yes.

Q. How did that come about?

A. I don't recall. So many things like that happened. Well, I don't know if I mentioned, the first time I went to Kaesong. I got out of the helicopter and looked around and there were five submachine guns trained on me. Kaesong was behind their lines. That's why Admiral Joy refused to go back there. We had restrictions on what weapons could be carried and how many weapons could be in the neutral zone when we moved to Panmunjon. But there was an invisible line from the first day. We would have our tents on one side and we would go to the tent where the negotiations were going on. Panmunjon was all tents at that time. We wouldn't go on their side and they wouldn't come on our side. Well, eventually we had an armistice agreement completed in all particulars excepting the problem of the prisoners of war who did not want to return to China. Now, we had at that time about 20,000 Chinese, most of whom wanted to go to Taiwan. But there were about 200 or fewer who didn't. But they didn't want to go back to the People's Republic of China, either. We had about 50,000 Koreans, a lot of whom were South Koreans who had been picked up because when North Korea drove down to the Pusan line and started going back, they took all the people of military age with them and forced them into their army. So there were a lot of South Koreans who wanted no part of North Korea, but were in the North Korean Army and who were captured. Many of them, deserted and came to us, but we couldn't identify them. They were wearing a North Korean

uniform so they were prisoners of war as far as we were concerned. These people didn't want any part of North Korea. So the question was, what were we going to do with them? Our position was that they could make their own decision. They could either make the decision to go to North Korea, to go to the People's Republic, to stay in South Korea, or to go to Taiwan. The Communists said that was a violation of the 1949 Convention provision. Now I am sure, and I have said this from the very word go, that they knew nothing whatsoever about the 1949 Conventions, didn't even know what they were, until this argument started and Moscow said, "Call attention to article such-and-such." I have forgotten what the article is now; I used to know them all. Then they said, "This article says that prisoners of war shall be released and repatriated at the conclusion of hostilities." Well, unfortunately, what had happened was that at the negotiations in Geneva, the Austrian delegation had proposed that no prisoner of war be compelled to return to his country. It had been voted down by the conference. They didn't know that. They didn't have the negotiating history available. I don't know why the Russians didn't give it to them. But the wording of the convention, itself was, "shall be released and repatriated." There was an "and" in there. So everything was decided excepting what was going to happen to prisoners of war. At that point, we discontinued negotiations because we were getting nowhere. This was in May of 1952. We had been there ten months at that time. Everybody left and went back to Tokyo excepting one of the liaison officers, myself, and a few other staff. In June I gave up and went back. By that time, the JAG office at GHQ had been moved to Yokohama. The occupation had ended and MacArthur or MacArthur's successor wanted to get the evidence of U.S. occupation out of Tokyo, so they were moving as much as they could to Yokohama. The JAG office had moved to Yokohama. Hickman had gone home and Elwood Sargent was now the Staff Judge

Advocate. He had me stay in Tokyo as the liaison officer between the judge advocate office and the general staff offices, which remained in Tokyo where the Commander in Chief was. This situation went on until January.

Q. Let me ask you a couple more questions about the armistice. Had MacArthur been removed by the time you started negotiations?

A. No, not by the time we started. MacArthur's the one that started negotiations, but as they went on MacArthur was relieved. I think Clark was the first man to replace him, then Ridgeway. I can't remember now who was first. One of them had had Eighth Army. When MacArthur was relieved, he moved over and took MacArthur's place and the other one came and took over Eighth Army. I guess it was Ridgeway first. Then Ridgeway was Commander in Chief and he became Chief of Staff of the Army. He left, and Clark moved from Eighth Army up to Commander in Chief. That's the way it was.

Q. About the fact that the Communists did not have a sense of humor. You mentioned a couple of incidents involving a ten year-old Korean boy and also some individuals spraying for DDT.

A. Yes. The press were the ones that helped us on those two. When the boy wandered into the neutral zone and the North Koreans-- I guess you could say captured him--and claimed that we had sent him in there to spy, the western press wrote articles about "The Capture of the Ten Year Old Master Spy." That ended it. You can't make fun of them, see, because that makes them lose face. The second incident involved the DDT spraying team. This team comes in with four or six 2-1/2 ton trucks with tanks of DDT and spray guns. They're making the rounds. Wherever they see a pool of water they spray DDT on it. That's the way you kill mosquitoes. The only thing that brought me out of New Guinea

alive was that we had DDT to do that. The North Koreans captured them. It took I think a day of negotiations to get them back. The press wrote about "The Invasion of the Neutral Zone by the Group of South Koreans Armed to the Teeth with DDT Spray Guns."

We had a very funny arrangement. We would have these meetings of five and five; the delegations backed up by the staff. They were getting nowhere so it was suggested that maybe they'd get further if it was one on one. The Chinese agreed to it after, I guess, getting permission from Pyongyang and Moscow. General Hodes was designated by Admiral Joy to be the U.S. negotiator. So we meet--I was his staff officer that day--and Hodes said, "Well, will you start the proceedings as usual?" The Communists said, "You start the proceedings." General Hodes said, "Maybe we ought to toss a coin as to who speaks first." Well, the Communist was astounded that anyone would make so light as to suggest that a serious decision like this should be made by the toss of a coin. Hodes, I think, was just trying to rub him the wrong way and succeeded in doing it.

- Q. You also mentioned something about pheasants?
- A. Oh, yeah. When we had these breaks, such as the first time that Admiral Joy refused to go back to Kaesong, we had to sit around in Munsan-ni in the apple orchard doing nothing. Of course, we developed volleyball games and stuff like that. But water was limited so you didn't want to play volleyball in the summer, get all hot, and not be able to take a shower. In the winter you didn't want to play volleyball. So, it was boring. One of things that we discovered we could do was to go pheasant hunting. There are a lot of pheasants in various areas of Korea. One or two men would go pheasant hunting, come back with one pheasant or two pheasants, and give them to the mess

sergeant. The mess sergeant would defeather them, clean them, and freeze them. We had a mess of about 16-18 people and you couldn't have two pheasants for that number of people. I went out once and I got an old pheasant who knew just what was what. My gun was good for, say, forty yards--he stayed forty five yards. If I moved forward ten yards, he moved back ten yards. He'd just stand there looking at me, but out of range. Anyway, Ridgeway had taken over as Commander in Chief by this time, and Michener came to Japan and Ridgeway accompanied him to Korea, and one of the places they visited is Munsan-ni for dinner. So the mess sergeant had pheasants--not under glass because he didn't have any glass for them to be under--but he had pheasants and Michener looks at Ridgeway and says, "Is this the way they live here?"

Q. Who was Michener?

A. James Michener who wrote "Inside America," "Inside This Place," and "The Bridges at To Ko Ri."

Q. You also mentioned before about an effective U.S. negotiator, Admiral Libby.

A. Admiral Libby, yes. When we would say something that took five minutes, the Communists would answer in 25 minutes. If they said something that took five minutes, we would answer in three minutes, and we were talked out. There wouldn't be anything else to say. Libby was the only exception to that. If they talked for five minutes, he would talk for 25 minutes. If they talked for a half an hour, he'd talk for two hours. He would make sense. He just had the ability to talk, without any notes, and just go on and on, always on the point. Sometimes it would be a little repetitious and a different phraseology, but he could take them and beat them at their own game. He was the only representative we had who could talk that way. We had some that were quite bad; they couldn't say anything unless you gave them a paper to read, and when they finished reading that, that ended the negotiations. And someone would have to hand them a slip of paper saying, "I suggest we adjourn." One Army General was the worst example of that. He was probably a fine commander and fighter, but he was terrible as a negotiator.

Q. Who was that?

A. I can't remember his name. He's a big, husky fellow. He commanded one of the divisions. He must have been 6'3" and weighed about 250 pounds. I can't remember his name. He was about the third or fourth Army representative.

Q. How about an individual named Burchett?

A. Burchett is an Australian, but he was a spokesman for the Communists. He's a journalist. Whatever the Communists did, he wrote justifying it. He was with the Communist journalists



*and on our side were the western journalists. Burchett crossed the line one day to talk to some of these people whom he had known for years, and he said to one Australian, "What do you think would happen if I went back to Australia?" This Australian said with a straight face, "Oh, they'd give you a fair trial before they hung you." He turned every color of the rainbow, turned around and walked back to the Communist side.*

*Q. We were talking about the POW exchange problem. How was it resolved?*

*A. It was resolved, really, by a voluntary repatriation. What happened was there was fear on both sides that there would be forced decisions. A soldier would volunteer not to go back. So it was arranged that one of the organs that was created by the armistice agreement would stand in the middle, really, at Freedom Bridge it's now called, and anyone who wanted to come across could cross and go to the other side. In other words, if a soldier wanted to go home he could go home, no problem. If he didn't want to, then the neutrals had to arrange for him to be interviewed by one of the people from his side. That is, if it was a North Korean who didn't want to go back to North Korea, the North Koreans had a right to interview him to see that he hadn't been forced to make that decision. The result was that eighteen Americans elected not to return. I think they all went to China. On our side, number one, the day before you see, Rhee turned about 20,000 of them loose. Boy, that created problems. But they claimed that these were civilians--and they probably were; a lot of them were civilians--and should not have been counted as prisoners of war. 20,000 Chinese said they didn't want to go back. The Chinese got nowhere with them. About 200 of them said, "We don't want to go to Taiwan; we don't want to go to the People's Republic." So the Indians, who were the police there, had these 200 on their hands. For some time,*

they kept them there, then they took them to India. When I was in Washington, five years later, they were submitting annual bills for the upkeep of these Chinese. They had still not found any place that would accept them. I don't know whether they are still there or not. Maybe their children are there in a camp in India now. But, incidently, the 18 Americans who elected not to return, eventually all 18 returned. Several of them were tried. I don't recall what offense was charged. I don't think it was treason. But whatever it was, one of them contended that when the United States made the announcement, it was promised that there would be no prosecution if you elected to come back. They had a recording of the statement that had been made and it stated that there would be no prosecution for your original failure to come back. But that didn't give them a pardon for all the other offenses they committed while they were POWs. Many of them had committed serious offenses. A number of them were tried. I don't know how many of them were tried because they were tried, probably, in California in Sixth Army when they arrived back in the United States.

- Q. I may have gone over this before. Was there a change in the tactics of the Communist negotiators when President Truman removed McArthur?
- A. Not perceptible. Probably psychologically it did. It made them feel stronger. But no way you could say that it was evident at the negotiating table.
- Q. In your article you talk about the fact that the Communist representatives followed the Soviet manner of negotiation. They come to negotiate with a chip on their shoulder, or an inferiority complex, or whatever. This article was written 25 years ago, and for the record it is now 1988 and we've just signed the INF treaty with the Soviets.

- A. But look how long it takes to get an agreement. The same thing. You have arguments about the agenda for months, then you argue on every little crossing of a T and dotting of an I.
- Q. I guess my question is, do you think that their tactics have changed in 25 years?
- A. No. I think I probably used the word "immutable," in there and that still exists. I was in Russia last summer and some of the things that were said in answer to questions, I could have answered the question with the identical words that were used.
- Q. You mentioned that we kept all the enemy prisoners at Koje Do Island? Was there anything unusual that occurred by placing prisoners there?
- A. It was very well organized. There was reason to believe that there were many prisoners there who were really political commissars who had been intentionally captured to become prisoners of war so that they could organize the prisoner of war camps. In fact, one doctor wrote a book titled "War in the Wars," I think he called it. What they would do in the prisoner of war camps, for example, is that the whole camp would get on line for sick call. You'd have 20,000 men on line for sick call. But they organized the camp. They killed a number of fellow prisoners of war who were not hardened Communists or who were anti-Communists and who were ferretted out by this group. Eventually they took prisoner the American commander of the prisoner of war camp. They said that if we went in with guns, they'd kill him. They wouldn't release him unless he signed a statement admitting the crimes that he had committed and that the Americans had committed. He signed the statement, which contained a lot of junk. The things that they claimed in

propaganda, he signed admitting them. They didn't release him, but the Army sent in an MP Brigadier General, man by the name of Boatner. Boatner said, "I'm going in at 9:00 tomorrow morning." Boatner went in with troops armed with rifles that had ammunition in them and a number of prisoners of war were killed, but Boatner put down the rebellion. The Colonel who had signed the statement was sent home in disgrace. That was the last time they had any trouble. They identified the ringleaders and they put them in a separate compound where they couldn't get control over the rest of the group. But they were armed with pointed sticks, poles, and whatever might be handy. They even had some more lethal weapons, which is typical. It always happens that there are some weapons, like these in a prison.

I went to Koje Do one week to see about the prisoners of war that were being held for war crimes trials and the witnesses. This was, say, on a Wednesday and they took the commanding officer prisoner on the following Monday. I always was glad of my timing, that I did it when I did and not four days later or I might have been one of those who signed a statement.

- Q. So the armistice talks stalled over the repatriation issue?
- A. They stalled from May of 1952 until about June of 1953. In the meantime, I had gone back to Tokyo and had become a liaison officer. In January 1953, I started thinking about going home and called the AG. He told me two things that got me sore. Number one, I said I was in Korea for a year; they had a point system and you got two points for Korea and one for Tokyo. He said, "You were in Korea on temporary duty, so you only get one point for your time in Korea." I said, "That's a load of malarkie. I was there on temporary duty because I was assigned to GHQ. But I was there continuously excepting when I came back

on TDY." So finally they gave me the two points and I had enough to go home. Then they said, "Well, we can't let you go home anyway because General Harrison," who had taken Admiral Joy's place as senior delegate, "has frozen you. You're the draftsman." I said, "Oh my God." Harrison was the Commanding General of the Eighth Army down in Yokohama so I called his Aide and I said, "I'd like to come down and see the General." He said, "Just a moment. You can see the General at 10:00 tomorrow morning." At 10:00 that next morning I was in his office in Yokohama. The Aide shows me in and General Harrison looks and says, "I know. Rats deserting the sinking ship." I said, "General, I just want to go home." So we had a talk. He was a very, very nice person. If he hadn't been in the Army he would have been a minister. He was very religious. On Easter at Munsan-ni, he conducted Easter services. Anyway, he said I could go. So I left to come back to the United States. In January, we had a murder take place in Tokyo in government quarters. The accused was a woman, the wife of an American Colonel. She was American, herself. She was the daughter of General Walter Krueger who commanded Sixth Army during the War. She killed her husband; she knifed him while he was asleep. The Army charged her with murder. I was designated as defense counsel. GHQ did not exercise general court-martial jurisdiction. But one of the service commands that took care of everything in Tokyo had general court-martial jurisdiction. They didn't have enough personnel so they asked the Staff Judge Advocate of GHQ to provide personnel and he provided me. I guess he felt I wasn't doing anything anyway. I was up in Tokyo as liaison officer and you can't "liaise" eight hours or ten hours a day.

Q. What was her name?

A. Her name was Dorothy Krueger Smith. Her husband was Colonel Smith. Her father was General Krueger. She was a mature woman. She had two teenage children, a boy and a girl. She was an alcoholic. She was taking that horrible smelling stuff they give to alcoholics; the stuff they use in hospitals; they use it for disinfectant. Whatever it was, the doctor was giving her that because apparently, when you take that, if you drink alcohol you become deathly sick. After you've done it once, you will never drink alcohol again when you've had this medication in you.

Q. Are you talking about antibuse?

A. No it's not an antibuse. This probably predated antibuse. Anyway, she was an alcoholic and trying to get off of it, but unsuccessfully. She also was a psychiatric case. I don't know what you would call it. It was more than a personality disorder. I think she was psychotic, really. I think she was a manic depressive. Everytime her husband got orders to move, she'd go into depression. He had just gotten orders to go back to Washington. I ascribe it to that. There was no reason for it. She just got up in the middle of the night, got a knife, stabbed him, and killed him. Well, as I say, I was the defense counsel. The law officer was Colonel Morris Pitzer, who subsequently had my job as Chief of the International Affairs Division and then had my job as SJA of Sixth Army. My first motion was to dismiss the charge on the ground that a court-martial didn't have jurisdiction because the Army had, in effect turned her loose on the Japanese economy. They had taken away her privileges; they had taken away her quarters; they had taken away her identification cards; she couldn't use the commissary or the PX. Of course, she was arrested and couldn't have used

these anyway. But everything that connected her with the military had been taken away from her.

Q. Was she in an American military prison in Japan or had the Japanese imprisoned her?

A. We had jurisdiction over her. The Japanese did not. So the court denied my motion and the case went to trial. I tried the murder aspects to try to raise doubts. That's about all you could do, because there was no question she had done it. General Krueger had sent over someone who had been a line officer with him before WWII, who was a retired Brigadier General from the JAG Corps. His name was Adam Richmond. General Richmond took care of the psychiatric aspects of the case. She was convicted and sentenced to a term of years by the general court-martial. She was sent to the United States. This was just at the time I was due to begin leave too. I took a ship back and when I arrived in San Francisco and got off the ship, she was in the brig at Ft. Mason. I went in to see her and had a talk with her. At that time she was perfectly alright. She seemed normal, but a psychiatrist might have seen other things that I couldn't see.

Q. She was on her way to Leavenworth, then?

A. No. There were no women at Leavenworth. She was on her way to Lexington, Kentucky I think it is, the federal women's prison. She went down there. I went to Leavenworth. I was SJA at Leavenworth; that was my next assignment. General Krueger came up to give a talk to the student body. He knew I was there and he asked to see me. So I went to his quarters. He lived in San Antonio, which had been his home for a long time. He had commanded Fourth Army Headquarters. They didn't call it armies before the war; they called it districts, or something like

that. He was a San Antonian, though. When he came back from the war, the City of San Antonio presented him with a house. He said that he was going to see what he could do for his daughter, even if it meant that he had to mortgage the house to the hilt or sell it. We had a discussion. He retained counsel. His counsel obtained a writ of habeas corpus from the federal court.

Q. Was Colonel Weiner the counsel?

A. No. This was some other counsel. Fritz Weiner only came in on the argument of the appeal. He was an appellate lawyer, really. He wrote a book on arguing appeals or something like that, that is a definitive text on arguing appeals. Anyway, the habeas corpus was denied. The Court of Appeals denied habeas corpus and it went to the Supreme Court. The Supreme Court granted certiorari. Fritz Weiner argued the case before the Supreme Court. The Supreme Court affirmed and denied habeas corpus. Fritz made a motion for reargument. The court grants probably one motion for reargument in ten thousand. They granted it in this case. On reargument, they reversed and held that courts-martial did not have jurisdiction over civilians. Justice Douglas wrote the opinion, as I recall it, and said that she was entitled to presentment before a grand jury, indictment by the grand jury, trial by the petit jury. Well that was nonsense. She might have been entitled to that, but she wasn't going to get it because if she was not tried by court-martial, she was going to be tried by a Japanese court, not by a court in the United States. There was no court in the United States that had jurisdiction outside of a court-martial. It was the only United States court that had jurisdiction. Until that decision, the Armed Forces had jurisdiction. But that was the first decision that held that courts-martial could not try civilians. That, and the companion case, Reid v. Covert.



Q. Who was Fritz Weiner?

A. Fritz Bernays Weiner was a Washington lawyer. He had been a JAG during the war and he was a reserve JAG; very close to JAG all along. He had been retained by the counsel that General Krueger had retained on the habeas corpus to argue the case in the Supreme Court. He's a fine lawyer. He did a superb job there, even though I disagree with the decision of the Court. But for him to be able to get a motion for reargument granted and then get the decision reversed, was just unheard of.

Q. Did you ever know what happened to Mrs. Smith?

A. No. I once asked someone who should have known and they said they hadn't heard anything from her or of her. The children, I think, disowned her. The only thing I heard was, I have a bank account at the Army National Bank at Ft. Leavenworth and they wrote to me and said, "We understand that you were counsel for Mrs. Smith. We have a note signed by COL Smith. Is there any way to get it paid?" I wrote back and said that was beyond me. It was out of my hands.

Q. After this case, then, you went to Fort Leavenworth?

A. I went to Fort Leavenworth as the SJA. Both my wife and I loved Leavenworth. We were very happy to be assigned there. It was by pure chance, General Hodes, whom I had been with in Korea for six months and with whom I'd become quite friendly, was the new Commandant of the Command & General Staff College. He had a fight with his SJA. He could do that; he was pretty arbitrary if he wanted to be. So the SJA was in disrepute and he told OTJAG that he wanted to be transferred. Hickman was the Personnel Officer or Executive Officer, whatever they called it

at that time, and he knew that I was friendly with Hodes. So he called Hodes and said, "Will you take Colonel Levie," and Hodes said, "I'd be delighted." So the next thing I knew, I had orders for Ft. Leavenworth. We sailed sometime in February and we arrived in San Francisco on March 6 or 7, and I had orders to report not later than March 10. So I couldn't take any leave. We drove right to Ft. Leavenworth. I went in to report to him and he said, "What are you here so soon for?" That's typical. Everybody's so sure that the General wants you yesterday, and the General hasn't any idea that you're even going to turn up. Anyway, it was an interesting experience for several reasons. Number one, 5th Army arrested a former prisoner of war by the name of Floyd. I think it's about 32 C.M.R. you can find U.S. against Floyd. Floyd was charged with maltreatment of several prisoners of war and collaboration with the Chinese. They had an investigation going on for some time. He had been discharged and reenlisted, so there was a good legal question about jurisdiction. Anyway, he got married and they arrested him on the way back from the church. Then 5th Army decided they didn't want to try him so they sent him down to the DB and said, "SJA, Leavenworth, you try him." They said, "He's too tough. We have no place up here that's secure enough for him so we had to send him to the DB." Well, if there was ever a guy who would do exactly as you told him to do as long as you were the boss, it was Floyd. Nobody had any trouble with him. In prisoner of war camps, they had made him the boss. That's why he had done the things he had done. But if he knew you were the boss, you had no problems whatsoever with him. You could have turned him loose and said, "Now, Floyd, don't go off the base." He wouldn't have gone off the base. But anyway, 5th Army used that as an excuse for sending him down, so they got rid of him. They did provide me with a defense counsel and a prosecutor. But we had to provide the court members and all of the support. The trial, was called the "meatball case"

because they were in a camp where there were 20 sick people. So they would give him 20 meatballs to give to the sick. That was their meal for the day. He'd give the sick 10 meatballs to divide up between the 20 people and eat the other 10 himself. That sort of thing. He was charged with having killed a couple of prisoners of war by pushing them off a bridge when they were marching to the POW camp. He was charged with about 15 or 18 charges of killing U.S. prisoners. He was found not guilty of those charges because the evidence was based on hearsay. But he was found guilty of enough of the other things that they gave him 40 years. I recommended to the General that he approve the 40-year sentence and he did. It went to Washington and they cut it to 20 years. Then he was not sent back to Leavenworth, but to this correction center in California to serve his time. The next thing I heard, somebody, the Secretary of the Army or someone had cut the sentence to 10 years. Well, with good behavior for 10 years, he probably served about 6 years? He still was being punished. He had just got married; never got near his wife; she probably divorced him under the circumstances. She wasn't going to wait 20 years for him to come out. So he was punished severely enough. But he was quite a "cause celebre." He was black and he had a black lawyer. The black lawyer would get down on his knees and pray that the jury would see the light. He was a good lawyer. I came up against him in another case. The last case I ever tried, in Topeka or Wichita, wherever the federal court is in Kansas.

The other cases that we had were those cases that I mentioned before. The ones that were tried in Europe and reversed here, and then Europe didn't want to try them again. We tried them. We had about a half dozen of those. The only ones we tried were ones that involved something where it was disreputable not to try the case again. If it was an ordinary case, if an accused had stabbed another American soldier, there was no policy

involved, then we wouldn't try it. But if it involved the Germans and we had told the Germans that the soldier been convicted and sentenced to 10 years or something like that, I felt that you had to try them again. Otherwise, the Germans were going to find out and wonder what kind of a business this was. So we tried half a dozen of those cases.

In addition to the Floyd case and these European cases, we had a case where we had in the DB three soldiers from Ft. Riley who had gotten into a taxicab in whatever the town was and told the driver to drive them to Ft. Riley, and enroute they killed him and took his money. He had eight or ten dollars they'd taken. They had been tried for murder and were sentenced to be executed. They were in the DB awaiting execution. They filed a habeas corpus petition with this same lawyer. Normally, when that happened the litigation division, Habeas Corpus Branch or whatever they called it, would come out and try the case for the United States Attorney. They had an agreement with the Department of Justice that we would provide counsel for the military habeas corpus cases. But I got a telegram saying, "We're busy elsewhere. You are hereby designated as the representative of The Judge Advocate General to try this habeas corpus petition." Wherever the court was, I think maybe Wichita, it was about a 40-50 mile drive from Ft. Leavenworth, and for three days we had to take these three men in irons down to the United States District Court, have them sit there with MPs all around, try the case, go back that evening, come back the next morning. We finished up on the third day. The judge denied habeas corpus, and that's the last case I ever tried. One postscript to that: about two or three weeks later, the Commandant of the DB called me and he said, "We have an execution tomorrow." The case involved a warrant officer who had killed his wife. The Commandant said, "We'd like you to be an official witness." So I said, "No. I'll send my Executive

Officer to be an official witness. I want to be an official witness when these three are executed." I thought it was a nasty murder; I mean, they stabbed the guy in the back when he's driving them home. So my Exec was present. This was about 6:00 in the morning. The State of Kansas would do the execution by hanging. So about 9:00 I went out to get my car and my Executive Officer's wife was getting her car, which was in the next garage to mine and I said, "Is Tom on his way to Chicago?" He was supposed to go up there for the weekend. She said, "Are you crazy? He came back from that execution, took a pill, and went to bed. He's asleep in bed. He couldn't take it anymore." Well, I got the call from General Hickman to go to Washington before the next execution, so I never saw my three friends being executed. But they were eventually executed.

Q. You mentioned a story about being at Ft. Leavenworth with a Korean named Pak Sun Yop?

A. Pak Sun Yop had been the first South Korean member of the armistice delegation. He was a two-star General then. He became a Four-Star General. He became the Chief of Staff of the Korean Army and then he became Minister of Defense. While he was Minister of Defense, he was making a tour of the United States. One place he stopped was at Ft. Leavenworth, both to see the Command & General Staff College and because he knew Hodes from the armistice negotiations. General Hodes called me and told me to come up to see General Pak. So I went up. The three of us are sitting reminiscing and the General's secretary comes in and says, "There's a long distance call for General Pak." This, then, must have been early or mid-July 1953. Pak goes out and is gone for about 15 minutes. He comes back and he said, "That was President Rhee." President Syngman Rhee, of the Republic of Korea. He said, "The President wanted to know whether we could fight on by ourselves if the United states

*signed an armistice agreement and withdrew its troops." General Hodes said, "What did you tell him?" General Pak said, "I told him no. It was completely impossible." General Hodes said, "What did he say?" He said, "Come back by the first plane." So he went back and that's when Syngman Rhee turned loose the 20,000 prisoners. He didn't want that armistice to be signed because he wanted us to go north of the 38th parallel, up to the Yalu River, so that it would be one country again. But under the Republic of Korea. I don't know whether Pak was relieved or not, as Minister of Defense, by President Rhee.*

*Another funny story about Rhee. Justice Douglas came over to Japan at the end of a session of the Supreme Court and I was designated as his escort officer. We flew to Korea. The first thing, we sat down on a plane, and I don't remember the name of this case, but the accused's name was Anisa. He had been in Japan when the war broke out, stayed and helped the Japanese by acting as an interpreter in a prisoner of war camp. And he was worse than the guards, apparently. When the war was over, he got back to the United States and was home free, until he was in a department store in San Francisco when one of the former prisoners of war saw him, identified him, called the police, and had him arrested. He was tried in the U.S. for war crimes or some specific offense because he was an American citizen. But the case had reached the Supreme Court and Douglas had written the opinion a day or two before he left to come to Japan. So we sat down in the plane and (let's say this is the Jingo-Jingo case) he said, "What do the people out here think of the Jingo-Jingo case?" I said, "What case, Mr. Justice?" He said, "The Jingo-Jingo case." I said, "I never heard of it." Well he lost all respect for me. He thought that because the Washington Post carried the story the day he wrote it, that the Tokyo papers would have it the day he wrote it. We probably would get the advance sheet in about six months. Anyway, we get*

over there and he has an interview with Syngman Rhee, and he comes out shaking his head. I said, "What's the matter, Mr. Justice?" He said, "I asked the President whether rice was rationed and he said 'We have a shortage of rice. We can't ration it.'"

So, that was the end of my tour in Tokyo, and I've told you about Ft. Leavenworth. I was enjoying life very much at Leavenworth. My wife was enjoying life. Our social life was wonderful. I was a golf player and we had 36 holes of golf; about two or three swimming pools; everything you could want. I get a call from now Brigadier General Hickman who said, "We're creating an International Affairs Division and we want you to come to Washington to be the Chief."

- Q. How many other people were executed while you were the SJA at Ft. Leavenworth?
- A. The warrant officer was the only one who was executed while I was there. The other three were executed after I left. I don't know any others that were executed.
- Q. Colonel Levie, yesterday we talked about your duty in Korea. You were going to tell us a story about an individual by the name of Chet Silvers.
- A. Yes. Chet Silvers was the Staff Judge Advocate of 8th Army, which was the Army that was fighting in Korea. In October 1950, when I spent the month there . . . no, I'm sorry. It must have been the following year when I was over again sitting as a law officer. We had one case. Our troops had gone all the way up near Pyongyang. As a matter of fact, we had taken Pyongyang at that time. Then we had been pushed back. When we were at Pyongyang, an event occurred in which some American soldiers had

killed North Korean civilians. They were charged with murder and were to be tried. I sat as a law officer on the trial. But, by the time the trial occurred, which was in the Spring of '51, we had been pushed back. We were back near the 38th parallel and the civilian witnesses were no longer available to us because they were in North Korean territory. So the specification said that these soldiers had killed six North Korean civilians to wit: and it listed six names, Korean names. Well, the prosecutor was unable to prove the identity of the men who had been killed. So when we went into closed session, and after we found that the rest of the evidence proved that the men had killed six civilians, I said, "We have to change the specifications to say 'Six North Korean civilians, names unknown.'" Because we had no one who could prove the identity of these people. So we did that. It went to Washington and the Board of Review reversed on the grounds that it was not a proper specification, and dismissed the case because there was no way they could ever prove the identity of the civilians. Chet Silvers wrote me a letter. He was burned up that I had directed the court to make that change. Of course, otherwise we would have had to dismiss because there was no evidence whatsoever of identity, excepting that they were North Korean civilians. About a year or two later, an identical case reached the Court of Military Appeals, and the Court of Military Appeals affirmed the specification, which said "identities unknown." So I wrote Chet Silvers. By that time he was out of the Army and was the prosecuting attorney in Manhattan or Junction City, Kansas. That was the area he came from. I wrote him a letter and enclosed a copy of the decision of the Court of Military Appeals and said, "See!"

- Q. Wasn't that the nature of the specifications in the Calley case, too? The victims were unknown Vietnamese civilians?



A. Probably. It would probably have had to be. But apparently my case was the first one in which it had occurred. Silvers was really perturbed because he felt that it affected the military discipline in the 8th Army.

Q. Sir, you went to Washington after leaving Ft. Leavenworth?

A. I went to Washington and, in fact, became the first Chief of the International Affairs Division which had been created because of the influx of international work as a result of such agreements as the NATO agreement and the security agreement with Japan. There were a dozen other agreements that were either in the making or had already occurred. So the Judge Advocate General created this new division. International Law Branch was moved from the Military Affairs Division. The War Crimes Division-I don't know where that had been before or whether it had been by itself-but it became a part of the Division; and I had another branch, I can't remember what the other branch was. I had three branches. Most of our work concerned NATO; the NATO Status of Forces Agreement (SOFA), because Congress was very interested. There would be statements from Congressmen such as: "We can't let the foreign country try our people. If they're tried in a Moslem country for stealing they will cut off their arms." There were all sorts of stories that were rampant. Congress had the feeling that wherever an American soldier was, the Constitution should go with him. Of course, foreign countries don't believe that. They don't believe that the American Constitution is world-wide. For that reason, we had to be very careful in everything that we did. When the Senate gave its advice and consent to the ratification of the NATO Status of Forces Agreement, they put reservations in it which required us to make country studies of the law of each country that had U.S. troops, and which required us to have observers at every trial, and to ask for the foreign country to waive

jurisdiction to us. We were supposed to do that only in unusual cases. Actually, we always did it. We established a process of requesting a waiver in every case. In some countries, such as France or Italy, we would probably get 90% or more waivers. In other countries, strangely enough, Great Britian, for example, we would get a very small percentage of waivers. Fortunately, in Great Britian there weren't too many cases. Most of them were Air Force cases, too. But that didn't matter too much as far as we were concerned. But also, the British have the jury system so that it was closer to ours. It created fewer problems. I said the fact they were Air Force cases didn't make too much difference. That's because we were the Executive Agent for the Department of Defense. We had to collect statistics from all of the services. We had to report to Congress, to the Senate, for all of the services. We did that annually. We made reports as to what was going on in each country around the world where American troops were stationed.

- Q. Do you recall who the TJAG was that started the International Affairs Division at OTJAG?
- A. Someplace I suppose I have a list of JAGs. That would be in 1954. No, I can't remember who the TJAG was at that moment. Hickman was the Executive Officer. Then he became a Brigadier General and I reported to him. I should be able to remember who the TJAG was, but I can't.
- Q. When you had to report the trial statistics, was there a great deal of interest in that by Congress?
- A. I don't think there was after the first few years. The first couple of years it was a hot subject because there were articles in legal periodicals, particularly by Archibald King, who had

been Chief of the International Law Branch during the War, in which he claimed that under the Schooner Exchange Case, the decision by Chief Justice Marshall, that we had jurisdiction over our troops wherever they were. There would be other articles on the other side of the subject. So, it was a hot subject academically and it became a hot subject politically. Particularly if anybody would be tried. For example, we had two men, Keefe I think it was and another with an Italian name, something like Scarletti, who were convicted of robbing a taxi driver. I think it was in France. Their family created a lot of publicity. There were stories that they were being maltreated. I was making a tour of Europe and I actually went to the prison which was way out in the middle of nowhere. It wasn't in the middle of nowhere, but as far as I was concerned, it was 150 miles west of Paris where there was nothing but the English Channel. I had to go there and I talked to them for about two or three hours. I went back to Paris and wrote a report which I sent by cable to Washington. General Hickman was going before the Senate committee and he read my cable to the Senate committee as to what was happening to these two men that all the publicity had occurred about. There were a lot of cases like that. If the family got angry enough to get hold of their Congressman and the newspapers, then it would become a cause celebre.

- Q. Well, we didn't exactly treat military prisoners with a great deal of dignity and respect back then, either. Were they really being poorly treated in France?
- A. No. They weren't being mistreated at all. They didn't like the diet - well, it was a different diet than they were used to. It wasn't as bad as Italy where they'd get pasta with every meal. Keefe complained about his teeth; he had an appointment with the dentist the next day. These were things that were

blown out of proportion in the United States. They were a good way for a Congressman to show his interest in his constituents. And gradually it died off. But as long as I was there, every year we had to make a report to a subcommittee of the Senate Military Affairs Committee. Sam Irvin was the Chairman of the Subcommittee. I think Senator Flanders was the other member of the Subcommittee. Every 12 months we would go up there and give them a book of statistics of about 50 pages showing what had happened in every country in the world where there were American troops. And we'd explain all the cases that had reached the newspapers, or any cases that we felt were important or had established a precedent. Now, we did all of that the entire time I was there. When we ran into trouble was when the Supreme Court came down with the decisions in Kinsella v. Krueger and Reid v. Covert. I was in Italy by the time that took effect. For example, one case I remember. The wife of an enlisted sergeant, I guess it was, had shot him. Fortunately, he was so fat that the bullet didn't penetrate through the fat and it just wounded him; there was no serious injury. But we had requested a waiver, and the Italian government had granted us a waiver. Then this decision came down, and we had to go the Minister of Justice of Italy and say, "Sorry. You waived jurisdiction of this case to us, but we don't have jurisdiction to try it so we've got to give it back to you." So the Italian courts tried her. Foreign courts don't want to try American women and put them in jail. It's too much of a problem. So what they did is they tried her. I attended the trial and it was very similar to our trial excepting that the judges would retire with the jury instead of separating the jury. And they convicted her and sentenced her to two years, gave her an amnesty, and released her. They didn't want her in jail. So for shooting her husband, she was in jail for about three weeks before the trial. But this was the problem that arose because of the decision that courts-martial could not try civilians. That meant that we

could no longer get waivers of jurisdiction from the foreign government in any cases, excepting uniformed personnel. If they were dependents and civilian service employees, we couldn't take jurisdiction.

But, getting back to Washington. Actually, we began to develop a great deal more work than just statistics on SOFA agreements around the world. One matter that I wanted to mention was the Philippine government made a number of claims against the United States arising out of the War. They were logical claims. It was just a question as to whether the United States was legally liable and whether they could prove the facts of the claims. I mean, they weren't saying, "You got us into this and you've got to pay us for it." For about 10 or 12 weeks, a representative of the State Department, and myself would go to the Philippine Embassy and they would present a different claim on different facts. One of their claims involved payment to guerrillas. Well, when I had seen General Krueger in Leavenworth when he had come up there to lecture, I had had a talk with him and one of the things we had discussed was the guerrillas. Sixth Army had controlled guerrillas in the Philippines. They were quite active in places up north of Manila. And I asked the General how many guerrillas there actually were in the Philippines that responded to his orders and that he supplied. They had submarines and airlift drops that provided supplies for the guerrillas. He said actually about 5,000 guerrillas were involved. The maximum would have been about 10,000. So, his figure was 5,000-10,000. When the Philippine government presented their claim on the pay of guerrillas, it was between 200,000 to 300,000. Everybody became a guerrilla when the American troops got into the area. This was typical of the claims. The Philippine government was not responsible for it. It was the individuals. They would say, "You can make an application if you served as a guerrilla," and

all these people would make the application. The Philippine government didn't investigate them, they just took them and said, "We have 225,000 claims of guerrillas." But this was typical of all the claims. They were greatly inflated by the individuals. Some of them were not even moral claims, let alone legal claims. So when we started going over them with the Department of State, I recommended the rejection of all but one of the claims, and that I recommended be paid only in part. The claims totaled somewhere over three billion dollars. We wrote reports on every one of these claims, as to what the position of the Department. of the Army was. That ended it as far as I was concerned. We rejected the claims, excepting this one claim that could go before Congress for an appropriation. While I was still at the Pentagon, I made a trip to Europe with Asst. Secretary Milton. We were in some place where there were very few troops. I think we had gone to see some German operation, or something like that. I got a telephone call in Berlin. I was at a night club, and I got a telephone call. How they located me at this night club, I don't know. There were five of us colonels at this night club. They said Washington wanted to talk to me about these Philippine claims. I said, "Well, look, I'm not on a secure line. Tomorrow I'm going to be at Heidelberg and there I can have a conference call with you." They said alright, 4:00 p.m. tomorrow afternoon. So at 4:00 p.m. the next day, I was in the conference room at Heidelberg, prepared to talk to them. The ticker starts clicking and it says, "The following are present." It lists about 15 people, the Department of State, the Department. of Defense, the Department. of the Army--I don't know who else. Oh, I guess the Maritime Commission was there also because it turned out that there was a case before the Supreme Court involving some ships that had been chartered by the Philippines. One of the legal questions involved was one that the Filipinos had made against us. There was a woman lawyer at the Department of State,

Katherine Lincoln, who had been with me on the Filipino claims. The Department of Justice had sent the brief to the Department of State for approval and the Department of State had refused to approve it because she said that that was not in accordance with what we had determined on the Philippine claims, and that she wouldn't approve it unless Colonel Levie approved it. So they wanted to know whether I would approve this statement. They read this statement to me and I said, "Absolutely not. If you want to make that statement then you might as well say we're prepared to pay you 3 billion dollars." Because it was, really, a complete concession on the major legal controversy between us. So I said, "Moreover, it is now six o'clock. I have not eaten since breakfast. I'm here all alone. I'm five miles away from any place where I can get any food. You fifteen people can argue it out in Washington. I'm leaving." I turned off the connection and left. Well, the Department of Justice eliminated that statement from the agreement.

- Q. On what basis did the Filipino guerrillas want to be paid, as American soldiers or Philippine nationals?
- A. There was an arrangement by which we had agreed to pay the guerrillas that had been recognized by 6th Army. It wasn't as much as an American soldier would get. So we were prepared to pay the 5,000-10,000 who were recognized by 6th Army and actually served under American officers. There were American officers who had stayed in the Philippines and headed the resistance. There were also Filipino leaders, but there were two or three very well known American leaders. As a matter of fact, the Japanese had put a price on their head.
- Q. Aside from the NATO SOFA details that you were handling and the Philippine claims, what were the other duties of the International Affairs Division when it was first organized?

- A. That was a period when SOFA agreements were being negotiated with a number of other countries: the Filipino Military Bases Agreement, we were also negotiating agreements in Thailand; The Korean War was over, but there was a renegotiation during that point because during the fighting, we had had complete jurisdiction. So there was a tremendous amount of work going on. As a matter of fact, the Division increased in size to about 7 or 8 officers and 4 or 5 civilians before I left. There was plenty of work to do.

We had less and less to do with regard to SOFA, that is, criminal jurisdiction. There are a dozen other articles in the SOFA agreements that are of great importance, and all of those had to be supervised. As a matter of fact, we were overseeing what was going on in every place in the world that the United States had troops to such an extent that when I was transferred to Italy, the Commanding General would call me in to talk about some problem and I'd say, "Oh, yes, General. Here's what we do." He'd look at me and he'd say, "How do you know about that?" I'd say, "General, I've been doing that same thing in Washington for the last four years." That was General Harvey Fisher. He later became a Lieutenant General, Commander of a Corps in Viet Nam. He wasn't there very long. I left the Pentagon and went to SETAF (Southern European Task Force), in Verona, Vicenza, and Livorno, Italy. At that time, the headquarters was in Verona, the troops were in Vicenza, and the logistics were at Livorno on the Mediterranean Sea. Now we have given up everything in Verona. The troops and the headquarters are in Vicenza and the supply base is still in Livorno. This arose out of the Austrian State Treaty. When we entered into the Austrian State Treaty in 1955, one of the provisions was that all foreign troops, Russian, American, whatever other troops were there, had to vacate, I think, within 90 days. In



anticipation, we had made arrangements with the Italians. Livorno had been a supply base for the troops in Austria and we retained Livorno, but we moved the troops and headquarters to Verona and Vicenza. It was a task force to support the Italian Army in the event of an attack across the pass between Austria and Italy; it's a historic entranceway for eastern Europe or the Orient into Italy and western Europe. I was there from about June of 1958 to November or December of 1959. It was a very fine assignment. The Italians treated us wonderfully. It was a small organization. We had only about 5,000 troops, but it was very well trained and had a good commander and generals. In November of 1959, I came back to a conference of JAGs in Charlottesville and when I was in Washington I was told by the Office of the Judge Advocate General that I was going to be moved from Verona to Paris to become the first military legal adviser of the United States European Command (EUCOM).

Q. You were the Staff Judge Advocate for the SETAF?

A. Yes.

Q. You mentioned Austria. Was that the agreement where Austria became a neutral state and Soviet troops and U.S. troops left?

A. Yes. That was the so-called State Treaty of 1955. It came as a great surprise to us because the Russians had refused to vacate Austria and had been adamant about delay, delay, delay. All of a sudden something happened, I don't know what it was, but they said they were prepared to sign the agreement. They signed the agreement, and as I say, it had one of these quick exit provisions that mandated we had to have everything out in a very short period of time. So it caused quite a to-do. Fortunately, we had made the advance arrangements with Italy.

Q. Was there ever any explanation as to why the Russians left a country they had occupied?

A. Well, they knew that they were not going to be able to do what they had done in Germany. The Austrians didn't respond the way the East Germans had. There was no major Communist party in Austria. I visited Vienna a couple of years later and the dislike of the Russians was as great as the dislike of the Nazis who had occupied France, Belgium, Holland, and those countries. But politically, why they did it, there must have been some strategic reason for doing it.

Q. When you were the SJA at SETAF, this was in the middle of the Cold War. Were there heightened tensions in Europe?

A. There were heightened tensions, but as I say, we were on the alert. We were supplied with nuclear weapons, nuclear mines. Our mission was to blow up the mountain passes and prevent the Russians from coming across if they attacked. This was to support the Italian Army. We were small, but we were loaded. Shortly after I got there, we had a maneuver with the Italian Army called "Golden Arrow." It was up on Lake Como. That was my only experience with the capabilities of nuclear weapons. I witnessed the preparation of a nuclear mine. It wasn't an actual mine. It had no nuclear material in it. But it was the same otherwise. I was in a tent one night for about three hours while the troops prepared it in the event that we were to use it. It was a training exercise. Even though I knew there was nothing in it, still your blood curdled at the possibility.

In Italy, incidently, our relations were very good with the Italians. They waived jurisdiction over most criminal cases. When some case arose that had a lot of local implications, such as the rape of a local girl, then the Italians would refuse to

waive. But we had well disciplined troops and events like that very, very rarely happened. Every month I would go to Venice where the provincial prosecutor was located and discuss with him all the cases that we were having any problems with. About 95% of the time, the resolution of the problem was in our favor. If they could do anything, they were prepared to do it. One negotiation I had was really funny. Our ammunition was landed at Livorno. Then it came by train to Verona on to Vicenza, where we had ammunition dumps. Somebody realized that if we ever had any problem, we were going to blow up the Leaning Tower of Pisa. Just consider what the repercussions against the United States would be if anything like that had happened! So we went over to Pisa to have some talks with the local people about whether we couldn't route the ammunition trains around so that if anything happened we wouldn't have to worry about the Leaning Tower. Livorno is completely communist. The stevedores, although we're suppose to be selective, we know that it's infiltrated and half of them are communist, so we never knew what might happen--that they might put a bomb on an ammunition train just to cause bad feelings. So we're sitting there negotiating, in Italian, and I had my interpreter with me. I didn't have my regular interpreter, that was the trouble. I had a Yugoslav who had refused to go back to Yugoslavia when it became communist, and he spoke beautiful English, beautiful Italian. I suppose he spoke beautiful whatever languages are spoken in Yugoslavia. He wasn't there for some reason and I had a substitute. I said something, and the substitute translated it into Italian. I knew enough Italian so I said, "No, that's not what I said." Well, at that point the Italians wanted me to negotiate directly in Italian. I would have no part of it. I happened to be able to correct him, but I couldn't express my thoughts adequately for negotiations of a very important matter. But we had a lot of negotiations.

We had a Rear Admiral, a navy officer, in Rome, who was the country representative. He was the one who would go to the Ministry of Justice if we wanted something that had to be negotiated. He had a very small office; he had one officer in with him. He was there, I suppose, because the Navy had no other place to put him. When he left, he was replaced by a commander who had been his assistant. Most of the work we did ourselves. I would go to Rome and go to the Ministry of Justice on any unusual case. I'd clear it with him, but then I would do the negotiating myself. We had an American-I guess he was with the military assistance group-an infantry colonel who had been brought up trilingual. He spoke French, Italian, and English equally well. He was a tremendous aid when you wanted anything from the Italians because they had a lot of respect for him; they knew that he knew Italy, he knew Italian, and he had been stationed in Rome for several years. He was a tremendous help to us, too. But we didn't have any major problems in Italy while I was there. That probably was the best assignment I had, and I had all good assignments. My wife and I both loved that assignment in Italy. There was a lot of work to do, but it was enjoyable work.

Then, as I say, in November 1959 I went back to this conference and I was told I was being moved to Paris. They had a civilian General Counsel, I think he was called, and they were converting his space into a military space as a legal advisor. I was to report there on December 1, 1959. So the last week in November we drove to Paris and looked for a place to live. That was something. It was terrible finding anything. We finally found a place. There were no quarters available. EUCOM had a place with quarters out in the country, but we wanted to live in the city because my wife doesn't drive and she would have been isolated out in the country. So, on December 1st I went to work at the United States European Command. There we had 17

countries under our jurisdiction, where United States troops were stationed or we had military assistance groups, or something like that. They ran, actually, from Pakistan to Norway. It was an interesting job, except for one aspect. That was that my predecessor had been so ineffective that the legal office had been gradually left out of decision-making. Any papers that would go through the command would skip the legal office, even if they had legal problems involved. I really spent my year and a half there in a selling job of trying to convince the staff officers that a lot of their papers had legal problems that should be routed through the legal advisors office. I think I was successful because we were getting a lot of work by the time I left. When I got there, as I say, if we got one paper a month, it was a lot. That wasn't because there weren't legal problems. It was because they had found that if they sent it to the legal office it died there.

- Q. What was the command structure in Europe at that time?
- A. SHAPE was about four or five miles from us. The commanding general of SHAPE, CINC or whatever they called him, was an American four-star General who was technically my boss also. But he never appeared at my headquarters. He was always at SHAPE headquarters. We had a four-star General who was the Deputy CINC of EUCOM. He had solely American functions. When I got there, Norstad, a four-star Air Force General, was the CINC. He was at SHAPE. Charles D. Palmer was the four-star Army general at EUCOM. As I say, technically, he was the Deputy. Actually, I don't think Norstad ever made any decision in respect to EUCOM. His time was spent 24 hours a day on NATO. Then there was an Air Force headquarters, I think in Ramstein, Germany. Then there was a Navy headquarters. The Navy had some small ships on the Rhine. My headquarters, EUCOM was a joint headquarters. We had an Air Force three-star General as Chief

of Staff; we had an Admiral as Asst. Chief of Staff; and we had several other Air Force generals and admirals as the heads of various departments. As a matter of fact, there was an Air Force Colonel who was the J-2. That was really a one-star job. But when he had taken over because his predecessor had left, he was so good at the job that they kept him there. He later went with NSA and became a Major General. He and I were the only non-stars that headed departments there. We were both full Colonels.

Q. Was DeGaulle the President of France at this time?

A. Yes. DeGaulle was the president. No one got along with DeGaulle, but there was no break from NATO at that time. It occurred after I left. Let's see, I was succeeded by Lou Shull who had been my boss in New Guinea when I was a second lieutenant. Then he was succeeded by George Prugh. I think when George Prugh was there, DeGaulle kicked NATO and EUCOM out of France. NATO went to Brussels and EUCOM went to Stuttgart, Germany. But that was after my time. When I left, we were still well ensconced in France.

That was an interesting job. I did a lot of travelling, which my wife didn't appreciate very much. When I was at the Pentagon, we had reached an agreement with the Turks under which we had a SOFA agreement. Incidentally, when the Senate gave its advice and consent to the NATO Status of Forces Agreement, one of the statements of understanding was that this would not constitute a precedent for agreements with other countries. Well, there was no way that it could not be a precedent because every other country which negotiated with us, when we got to the Status of Forces matters, would say, "We want what you have in NATO," and we'd end up in each case giving them that. I think the Philippines were the only exception at that time, and

subsequently, as I recall it, we had to change even in the Philippines. The Military Bases Agreement in the Philippines was a unique agreement because it actually gave us equivalent sovereignty over our areas. If a Filipino committed an offense on that base, we had jurisdiction, not the Filipinos. Which was ridiculous actually, and a pain in the neck as far as we were concerned. But I think that was renegotiated later after I got out. But, as I say, the NATO Status of Forces Agreement became the level for all such agreements. So Turkey had become a party to NATO and had ratified the Status of Forces Agreement. There was quite a bit of concern in the United States because we had heard all sorts of things about how the Turks treat people and how bad their prisons were. We knew that the Turks were tough people because they were the best troops in Korea. The North Koreans were more afraid of the Turks than of any other troops. I made a trip to Turkey to check into what would happen. When I got there they took me to their War College. I don't know whether it was Army or joint or what it was, but it was a War College. A beautiful location on a hill at Ankara. They showed me a room which would be used if there were any American prisoners. The room had been a classroom apparently, and they had emptied it and painted it. You could still smell the paint. I'm sure it was just arranged for my visit. Fortunately, I think it was about five or ten years before we ever had anybody in there. But the Turks were prepared to take care of any Americans that they had to try. But they waived almost 100% of the cases. I think there was a case, as I say, about a decade later where for some reason there was no waiver of jurisdiction and they did try him a soldier.

Q. You mentioned a story about travelling to Berlin on a train.

A. Yes. General Ted Decker--he was a Brigadier General then; it was before he was the Judge Advocate General--came over on a

trip to inspect in accordance with the provisions of the Uniform Code of Military Justice. One of the places that he was going was Berlin. For some reason I became his escort officer. It wasn't a usual function in the job I had. But some Major General was going with us because he happened to be going to Berlin. They got Marshall Goering's train, which consisted of an engine, a diner, and a living room/bedroom car. We took it out of Frankfurt one night, stopped at Potsdam, and we went on to Berlin. That was an unusual trip. Of course, it was very nice being in this deluxe car. Incidentally, my wife was with us. There were about six bedrooms and only about three officers; there were the Major General, General Decker, and myself. So they invited her to accompany us. We did our work in Berlin and took the train back. When we came back, we were all tired so we went to bed. My wife said she wasn't tired so she was going to sit up and read. So she was sitting in this living room of the car which had a pane of glass, like a picture window but about eight times the size of a picture window. It was practically the entire side of the car. There were Russian and East German guards on the platform. My wife saw them and got scared. She was afraid to move because she would attract their attention. They were looking at her out of the side of their eyes. She was afraid to stay there, so finally there was a sergeant who was in charge of the train, and he happened to come in to the place and she said, "Sergeant, get me out of here." So the sergeant escorted her into the bedroom.

Another one - General Palmer, the Deputy CINC, was going to make a trip to Pakistan; several other countries, but he was going to end up in Pakistan. He was going to the Khyber Pass just on a visit. A memorandum went around that any officers who had any business in Pakistan should let the Chief of Staff know and he would tell them whether they could go with the General. At the Command & General Staff College, I had become very friendly with



a Pakistani officer who was now a Major General commanding the division which defended the pass. I thought it would be wonderful if I could go along and go up and when General Palmer saluted him and he saluted back, then he would grab me and hug me because that's the way they do things. We had had trouble with greenbacks in Pakistan. There was a legal problem there that warranted my going, so I submitted my name.

Q. What were greenbacks?

A. Dollars. U.S. money. There was a currency exchange problem. We had nothing but a military assistance group there. Somehow or other a lot of greenbacks, a lot of dollars, were going in there and being exchanged. I've never understood the international method of dealing with money, but somehow by making several exchanges you get back the dollars but you get back about fifty percent more dollars than you started out with. That's what was happening. We wanted to see whether there was any way that we could stop that from going on because it was adversely affecting the Pakistani government. So I submitted my name. A couple of days later I got a memorandum from the Chief of Staff saying that unfortunately I was outranked. The Pakistanis didn't want more than six officers, I think, to go to the Khyber Pass. They were on very bad terms with Afghanistan and word would get to Afghanistan that the American officers were there and it would look like we were preparing to put American troops up there. So he said, "However, you are authorized to take a commercial flight to Pakistan." Well, number one, I didn't think it warranted spending \$1000-1500 for a trip on this matter which we could handle by mail, I was sure. Number two, I wouldn't be going to the Khyber Pass and that was the whole object of my desire to go there. So I said no to the Chief of Staff, that I would handle it by mail, and that I thought we could work out a solution from my office to the

*Military Assistance Office in Pakistan. So I did not go to Pakistan. I never got to Pakistan until 1974 when I was out of the Army.*

*I don't know of anything else of particular note that I can talk about concerning EUCOM.*

*Q. How about General Jone's visit?*

*A. General Jones came over - well that was when I was in SETAF. General Stanley Jones, who was the Assistant Judge Advocate General came to Rome on a visit. General Jones said, "I want a private audience with the Pope." I said, "General Jones, you can't have a private audience. The Pope will not be available. He's not in Rome now, and when he does come in, he's only coming in for the public audience at St. Peter's. He's driving in, he's going to St. Peter's, he's going to give a talk to the assembled multitude, and then he's going back to Castelsan Gandalfo. He repeated, "I want a private audience." So his Aide and I looked at each other and shrugged our shoulders and went on to something else. When we got to Rome, there was waiting for us at the hotel, a printed invitation for Major General Jones and his Aide to attend this public audience to be given by Pope John XXIII on Thursday morning, whatever the date was, at 10:00. This was Wednesday when we got to Rome. So Thursday morning, General Jones, his Aide and I took the sedan that had been given to us by the Embassy and drove to the Vatican City. Right outside the Vatican City there's a street which has a lot of shops where you can buy religious items, and also where the tourists buy them and take them into St. Peter's to have them blessed. We stopped at one of these shops and Grogan, John Grogan was the name of the Aide. John Grogan of course was a good Catholic so he bought a dozen or so crosses, and rosary beads, and whatever else attracted him and they were*

wrapped in a little box. General Jones did the same thing, and they were wrapped in a little box. The three of us walked out of the store. We opened the door of the sedan for General Jones to get in. He gets in and then leans out and he hands me the little box he has and he says, "Here, Howard, you take it and have it blessed." He closed the door and tells the driver to drive away. John Grogan and I looked at each other. We don't know what's going on. Fortunately, he had the ticket, so we said, "Well, we'll go to St. Peter's." So we went to St. Peter's. We showed our ticket to the Swiss guard at the door and he called one of the Chamberlains, a silk kneepants gentleman, who said "Come with me gentlemen" in good English. He took us around to two easy chairs right in front of the throne where the Pope would sit while he talked. Everybody else had the folding chairs. There were probably 25,000 people in St. Peter's that day, from all over the world. Each group would have a sign "Espania," "Polonia." They were from all over. So we sat down in our two easy chairs. At 10:00 promptly there was a blare and the procession starts. The Pope was carried in on a sedan chair. He's carried in and he's carried up to the throne where he gets off and sits on the throne. This was, as I say, about 25 feet from us. The throne was up in the air a little bit, but the whole distance from the throne to our seats was not more than 25 feet. Well when he's brought in, the Swiss guards come in and they line up in front of us, between us and the Pope. So our friend, the Chamberlain, who had seated us came over and made the Swiss guards move so that they would not block our view. The Pope spoke for about 15-20 minutes, in Italian. Of course, he was an Italian. I think he had been Patriarch of Venice when he was selected Pope. Then various priests translated into the languages of all of the visitors what the Pope had said. The French priest translated into French; I suppose there was a Polish priest that translated into Polish. There was an Irish priest who translated into English.

*I had understood the Pope's Italian better than I understood the Irish priest's English. When it was over we left. We went back to the office at the Embassy where we had started out from. General Jones was there. No comment was made. I handed him his package and said, "Here, General, the Pope has blessed these items." That was the end of it. He left that day to go back to the United States.*

*Q. We may have been over this, but at this point were you a Lieutenant Colonel or a Colonel?*

*A. I was a full Colonel.*

*Q. When had you been promoted to Colonel?*

*A. I went to Washington to take over as Chief of the International Affairs Division in October of 1954. At that time, I was a Lieutenant Colonel, but I had been selected for promotion and on November 1st I was promoted to full Colonel.*

*Q. You were selected in September and promoted in November?*

*A. Oh, I was selected probably in August. That was when JAG had had it's own list and we had just gone back under the general list. We were so far behind at that point, that we were promoted very quickly to get us back where we belonged on the general list.*

*Q. So it took you eleven years to go from Second Lieutenant to full Colonel.*

*A. Technically, yes. But under the statute of which I was integrated after WWII, I was given nine years constructive service. So actually, for promotion purposes I had twenty years*

of service. And I'm happy to say that for pay purposes I had twenty years of service.

Q. Did that count toward retirement purposes also?

A. Yes. This was because of the experience after WWI. After WWI, when they integrated officers who stayed in the regular Army, the Army integrated them all as Second Lieutenants. It took sixteen years to be promoted from First Lieutenant to Captain. A Captain was a Lieutenant for 16 years. That was such a horrendous experience. The Army lost people. People left the Army because here you were 40 years old and you were still a First Lieutenant. So the integration after WWII, when the Army was tremendously expanded and remained expanded compared to the 75,000 in the regular Army before WWII, they integrated in four categories: Second Lieutenant, First Lieutenant, Captain, and Major. So when I was integrated into the Army, I was integrated as a Regular Army Captain. I was promoted shortly thereafter. I was already a temporary Major. I don't even remember when I was promoted to permanent Major. It had no effect on me. Then, as you know, I was promoted to Lieutenant Colonel when I was in Japan in August of 1950.

Q. Were you the legal advisor to EUCOM during the Berlin crisis?

A. No. As I recall it, that was earlier. That was about '48 or '49.

Q. How about when the Berlin wall went up?

A. The Berlin wall went up after I left. I made a sightseeing trip to Berlin on one occasion, and I made this official trip to Berlin, and the wall was not up on either occasion, at least as I recall. I think the wall came up later. So many East Germans

were leaving and going to West Germany. The East Germans claimed it was a brain drain; that the educated people were the ones who were leaving. I suppose they were. Life was much better on the other side of the invisible Iron Curtain.

So I was in Paris, then, until the summer of 1961. I had gone to Italy in '58, then to Paris in '59, and I was there until June of '61. In June of '61 I left to become the Staff Judge Advocate, 6th Army, at the Presidio of San Francisco. The Presidio was a wonderful place to be assigned. I had no particular problems. We didn't exercise general court-martial jurisdiction so there was very little military justice to worry about. We tried a few cases. In a number of cases, the General was the convening authority although the trial might occur at Dugway, Utah. The trial might be with Dugway officers, a Dugway man being tried, but because they didn't have general court-martial jurisdiction the general had to be the convening authority. So we'd had an occasional general court-martial case, but that was the exception rather than the rule. Most of the commands did have general court-martial jurisdiction. If something happened at a small unit in that area, the commanding general at Fort Ord would be directed to convene the court and handle the matter. But we did have jurisdiction over the whole Pacific Coast. We had jurisdiction over the entire Pacific Coast and we went back to Utah. We convened in one layer of states. So we have about eight or ten states under our jurisdiction, with a great many military installations because Presidio's a favorite place. Texas and California, I guess, have the most military installations in the United States.

Q. You were telling us the story about how you got to be the SJA at Presidio?

A. When General Hickman was the Judge Advocate General, he said, "Where do you want to go when you leave EUCOM," when he was on an inspection trip. I said, "6th Army." That was the end of it. Thereafter, I decided that when I retired I would like to teach. I thought that the JAG School would be a good entree into the academic world. So I decided that I would try and get the job of Commandant of the JAG School because I would only have a year and a half or so until retirement so they could just shove me in for that long and then put someone in that was going to stay there for a four year tour. So, General Hickman retired and General Decker became the Judge Advocate General. He was coming over on a trip. I was prepared to ask him if I could have the job of Commandant of the JAG School. I knew the man who was there was going out and there would be a vacancy. He could just shove me in for the year and a half and then put somebody else in. So when he came to Paris, we had a dinner. The Air Force was in that area in some strength; the Army was not, outside of EUCOM. There were no Army troops in the area, as a matter of fact, so we only had staff officers around. But we had a dinner for General Decker and while we were drinking before dinner I was going to pose the question to him. Ted Decker said to me, "Howard, I want to speak to you privately for a moment." He took me aside and he said, "I know that General Hickman promised you 6th Army, and I'm going to see that you get it." When he said that, I couldn't say, "General, I don't want 6th Army." So I didn't mention the JAG School at all, and he did send me to 6th Army. I spent a year and a half of a really enjoyable period of time there and retired on January 31, 1963.

Q. Was that because of the statutory age limit for retirement?

A. Yes. The statutory age limit--I think it's still the same isn't it--five years in grade as a Colonel and 55 years of age, or

five years in grade as a Lieutenant Colonel and 53 years of age. This is for Regular Army officers. Reservists don't have these limits. I had a Lieutenant Colonel who was serving as my Executive Officer, a reserve officer, who was about 5 years older than I was. He was a good officer in his work, but he had no imagination. He would have made a poor boss. It was just as well that he never became a full Colonel. As an executive officer he was excellent. As the boss of the office he would have been very poor. He had a strange career, too. He came from Boston and he had been at Ft. Devens. From Ft. Devens, he went to SETAF as my Exec. From SETAF he went back to Ft. Devens as Exec there. From there he went to Germany as the Exec at some office. By that time he was 65 and he had to retire. He went back to Devens and got the same job he had had before, but as a civilian. That's the last I heard of him, well, he's probably gone by now. So he got shuttled between Europe and Ft. Devens. Now, as a regular he could not have done that; as a reserve, he could. It was fine with everybody concerned because he was a good officer for the jobs he had.

Q. What did you plan to do after you retired?

A. Well, I wanted to teach. The American Bar Association had it's annual meeting in San Francisco in August of 1962. That was eight months before I was to retire. There are a lot of deans and law professors who attend that meeting and they interview people there. Although most of the interviewing and that sort of thing was done at the meeting of the American Association of Law Schools. But they do interview at the ABA meeting also. I was interviewed by a number of people, including the Dean of St. Louis University Law School. He indicated some interest in me. I was coming to a JAG Conference at Charlottesville in September or October of 1962, so I stopped at St. Louis enroute and had an interview with the faculty. Then I went back to San



Francisco and I didn't hear anything. I decided that the interview had not been favorable. I didn't hear anything from the others that I had talked to at the American Bar Association meeting, so I started looking for another job. A retired JAG, Colonel Jim Hanley, who had retired a year or two before that and was working in San Diego with General Dynamics Aeronautics, arranged for me to have an interview with the Vice President of Administration. I went down to San Diego and had an interview and was hired to be Assistant to the Vice President who was the Vice President for Administration of General Dynamics Aeronautics in San Diego. I went back to San Francisco and told my wife that we were going to move to San Diego. Retirement came along on January 31st. We had, fortunately, decided not to move on the post and we had a private apartment so we didn't have to move out on January 31st. If we had been on the post, we'd have had to move out and that would have been the end of everything. But we didn't have to move out. We had just sent a few things down to San Diego, and the rest was still there to be picked up by movers and put in storage. General Dynamics wanted me to come to work on February 1st--the day after I retired. I said no, I wanted to have a vacation first, and I'd come to work on March 1st. So they said okay. The day after I retired, we flew to the East Coast to visit relatives. We were in New York. We'd been there maybe four or five days and I was visiting a friend who was a practicing lawyer in New York and who was very active in a law practice in Japan. He had an office in Tokyo. A telephone call came. It was my sister-in-law. She said, "There's a call for you from St. Louis." So I asked this friend if I could make a long distance call and pay for it and he said go ahead and make the call. So I called St. Louis University and they said, "Are you still interested in the job?" I said, "Well, I've taken another job, but it's not an academic one and I would like to teach. I'm interested, if I can get out of the other job." They said, "Well, we'll offer

you the job if you want it." So we finished our visit on the East Coast and flew back to San Francisco, picked up our car, and drove down to San Diego. I went in to see the man who was to be my boss. I said, "You know, when I was here for the interview one of the questions you asked me was what I really wanted to do. I said that I really wanted to teach in a law school." He said, "Yes, I remember that." I said, "Well now I've been offered a job in a law school. I'd like to take it, but I've made the commitment to you." He said, "Well, we won't hold you to that. I know you want to teach and if you have the opportunity, you go ahead and take the teaching job." So I thanked him and we took off. Of course, we had 1500 pounds of furniture in San Diego at that point. The rest was in storage in Alabama someplace. We drove across the country and I signed a contract in St. Louis. We drove on. I was going to start teaching in September, so we had from February until September to pass the time. So we went to New York. At that time, the Army still had ships at the Brooklyn Army Base. So I called the Army Base and I said, "What is the possibility of getting space available on a ship going to Europe?" They said, "Well, we'll put your name on the list and we'll call you whenever we have anything." This was maybe on a Thursday and on Monday they called me and said, "You can sail on Thursday." We said, "We'll be on the ship on Thursday." We went to the Brooklyn Army Base the night before, stayed there overnight, and the next morning we boarded our ship. I was the senior Army officer aboard so I had the best cabin. The ship was half empty. We sailed to Genoa, Italy. What the ship did was it would drop troops in Genoa and then it would make a circuit of the Mediterranean dropping troops and picking up troops who were going back to the United States in Italy, Greece, Turkey, and Libya. That time was pre-Khadafi. We got off at Genoa and went to Verona and spent some time there. This Yugoslav who had been my interpreter accompanied us down to Rimini and Riccione. We

wanted to stay on the Adriatic for awhile. We had five or six months to pass. He had friends everywhere in Italy. He had a friend who owned a hotel in Riccione, which is right near Rimini, right on the Adriatic Sea. He made arrangements for us to stay there for a month or six weeks. I think we paid \$10 a day for a suite of rooms and meals for the two of us. If we didn't like what was on the menu, we could always order a steak.

Q. Where was this?

A. Riccione is a town on the Adriatic in Italy. It's maybe 75-100 miles south of Venice. Venice is at the head of the Adriatic, or at the end of it.

Q. It cost you \$10 to have a suite of rooms?

A. And meals.

Q. What was the lira rate at that time?

A. The lira was very high. But this was in the sixties and things were cheap.

Q. Prior to your retirement, do you have any recollection about the Cuban missile crisis in the Fall of 1962? Was 6th Army involved in that in any way?

A. No, we weren't. As a matter of fact, we didn't even have any troops alerted. The troops that were alerted were alerted on the East Coast. There may have been some small units that happened to be in our area, but nothing as far as I remember.

*Q. You had referred to your interviewing process at the American Bar Association meeting as a "slave market." Tell us about that.*

*A. Well they don't call it a slave market at the Bar Association because it's not that organized. It's just casual. But at the Association of American Law Schools meeting, which used to meet between Christmas and New Years--for many years it met at the Edgewater Beach Hotel in Chicago and then they started moving it around, which they should do because Chicago is no place to go at the end of December. I've gone there when the snow was piled up on the streets six feet high and the wind comes whistling in from the lake. Now they've moved it. They have the "slave market," that's in quotes, in September, away from the AALS meeting which still meets at the same time, but at different places. What happened then was that at the AALS meeting, every law school would have a suite of rooms if they were looking for people to hire on the faculty. You could call them and make an appointment to be interviewed. The Dean would be there and maybe two or three other members of the faculty. It's a boring process so one of them would be there from 8:00-10:00, another would be there from 10:00-12:00, and so on. The Dean usually had to be there all the time. They would interview people and if they found someone who seemed to fit into what they were looking for, they would make an appointment with them to come and be interviewed by the faculty. It was a "slave market." It was where you prostrated yourself to get a job.*

*Q. The reason I asked is that you've referred to all these JAG Conferences that you went back to and a lot of the young captains in today's Graduate Course think that the same process goes on among the SJAs when they go back. Did that occur in your day? Did you all wheel and deal for young officers?*

A. No. I don't recall we had any contact with the students while we were there. But, I can see that something like that might well happen.

Q. The optimum word today is "face time." In other words, you put your face in front of a prospective SJA where you would like to get a job.

A. Well they used to have a custom that when you left any job, you filed a preference. First, second, and third. Everybody always used to say that those were the places you wouldn't go to. But I think that most people did get one of their preferences. Of course, if everybody asked for 6th Army, why everybody couldn't go to 6th Army because 6th Army might have one space or might have no spaces at that particular time. I think I told you the other day that when I was at Leavenworth, I had a young officer who was a very good officer. I wanted to see him stay on in the Regular Army. He and his wife came from Kansas. He had gone to the University of Kansas Law School and they lived in one of the towns there. That was where he intended to go back to practice. His family and his wife's family lived there and she talked to her mother everyday on the telephone. So, he was just not a candidate to apply for a Regular Army commission, which I thought was a shame because I thought he would make a good officer. This is what we tried to do. We had a lot of reserve lieutenants on duty in those days. When I got to Leavenworth, the Korean War was still on so the draft was still on. A lawyer could come in as, I think, a First Lieutenant JAG. Everything was processed for this particular officer to get out of the Army on a Monday morning and on Sunday he called me, came to my quarters, and said he would like to apply for a Regular Army commission. I said, "I thought your wife didn't like Army life." He said, "I thought so too, but she told me she loved it." I said, "Well, I'll call Washington to see if I can stop

it, but I don't know what I can do." The next morning I called and they said he's out of the Army as far as the Army's concerned. So, we had to go through with his separation. I thought it was a shame, but he waited too long, or his wife waited too long. Very, very frequently we found that the man would look forward to a military career, but the wife required roots. She felt that a military career was too rootless. Very often it was the marriage that resulted in the Army losing a good man as an officer. I think this was 1953. And at that time being in the Army you could call it peacetime because Korea was a small affair compared to WWII, as big as it was for those who were involved just the same as Viet Nam--but people were still not accustomed to a large Army in peacetime and to having people stay in the Army. I think now it's different. I think maybe the wives are more adjusted to the idea of an Army career than they were in the early '50s.

Q. Did they have a career course or graduate course during your period of time in the JAG Corps?

A. You mean at Charlottesville?

Q. At Charlottesville or up in Michigan?

A. Well, Michigan they closed down shortly after the end of WWII. The JAG Corps had no school. Then it's my recollection that late in the 1940s Ted Decker started the JAG School at Ft. Meyer. It was there for a year or so until they made arrangements with the University of Virginia to go down to Charlottesville. They did have the JAG School when I came to the International Affairs Division in '54 because I know that I got the pick of the graduating class of that year to come to my office. I didn't pick them. The Commandant or someone else picked them because I didn't know anything about them. I had

*never interviewed anyone or anything like that. I don't think they had the advanced course. I think they only had the basic course at that time. Oh, yes, and I know what they did. When you came into the Army as a lawyer, you were a First Lieutenant. They sent you to Ft. Benning for one or two or three months. I don't recall how long it was. And you learned to be a soldier there. You were a First Lieutenant, but sergeants were giving you orders because they were teaching you how to put your insignia on, how to salute, how to read insignia, and little things like that that an officer ought to know. Then when you finished that, you went to Charlottesville for three months to the basic course. Then you went out to a job. I don't know how long they continued that at Ft. Benning. Now, that's all done at Charlottesville, isn't it?*

- Q. Basically. There's a couple of weeks at Ft. Lee, for incoming Judge Advocates to get acquainted with the Army.*

- A. *You have a TAC officer there, don't you?*
- Q. *He's a member of the JAG School staff.*
- A. *Don't you have an infantry officer there or a line officer there for that purpose?*
- Q. *The person who currently does it is a line officer, but he is a member of the JAG school staff. Not the Ft. Lee staff.*
- A. *Oh, yes. I understood that. But I mean when they discontinued JAG training at Ft. Benning, they would assign a line officer to the JAG School as the TAC officer, tactical officer, to teach them. I guess he paraded them, and taught them what orders were, and things like that.*
- Q. *It's not quite that formal now. When I went to the basic course in 1981, strictly as a volunteer, I had never saluted and didn't know anything about the Army. We went to Ft. Lee for 2 weeks. We had an infantry officer who took us to Camp A. P. Hill and taught us how to march, salute, stand at attention, and basic military skills. JAG officers who had been in the Army helped him to help us learn how to fire an M-16, throw a hand grenade, and march. He was in charge but these JAG officers helped each other and helped us to learn how to do those things.*
- A. *Well, you see, they did have classes where everybody had just graduated from law school or just been admitted to the Bar, and nobody had any military experience unless they had had ROTC.*
- Q. *I was just wondering when the idea of the graduate course came along.*



A. I haven't any idea. Probably in the late fifties. Ted Decker, who was the founder of the School remained very interested in it during the remainder of his career. Of course he became the Judge Advocate General, so he could influence what happened there. Incidentally, there's one case that I did not mention to you that you definitely should know about. It's a historic matter. I thought of it because of the mention of Ted Decker. You'll see how he gets into it. While I was Chief of the International Affairs Division, we had the security agreement with Japan which had been modified to resemble the SOFA agreement. We had original jurisdiction where a uniformed person was concerned, where the victim was a member of the forces, or where the accused was on performance of official duty. Otherwise, the Japanese had jurisdiction and we would request them to waive it. Well, we had a case where the unit was practicing with machine guns. Whenever that happened, a lot of Japanese would collect the spent shell casings. They would collect it in two ways: first they would collect around the firing, and number two, when the firing would stop, they would all run forward to collect the brass. We would discard the brass, but they could collect it and make things out of it or sell it. It was an important item for these people. Well, the unit broke for lunch and they left a couple of guards on the range. One of the guards was a man named Girard. You know the Girard case? Well, Girard had some brass in his hand and he threw it. He had a grenade launcher, and instead of a grenade, he put the 50 caliber brass in the grenade launcher. When this woman rushed to get the brass that he had thrown out, he fired the grenade launcher at her. The brass hit her and killed her. We knew nothing about this case in Washington for a long time. But locally, the United States authorities filed a certificate alleging performance of official duty. The Japanese objected. They said that Girard was not acting in any official duty. Now, we had a case just shortly before that involving two MPs on duty

in this area in Japan that was off limits to American troops. We had an MP patrol in Tokyo. While on patrol, they had stopped in front of a Japanese house. One of them had gotten out, gone in and raped a Japanese woman, come out and got back in the Jeep, and they drove away. We claimed that was official duty. That is, the unit commander did. When the Japanese objected and it went up to higher authority, we had withdrawn the certificate of official duty. So, the Japanese said this was the same thing: Girard may have been on official duty, but the act that he committed was not a part of that official duty. Well, the United States authorities in Japan refused to go along with the Japanese and the matter was referred to my office. We wrote a cable saying, "We're stuck with it now. Stick to your guns. If you know that the Japanese will not relent and you have to give up, come back to us for further instruction." That went up to the General Counsel for the Department of Defense. The General Counsel for the Department of Defense changed the cable. He said, "If you have to give up, give up." So the next word we get is that the Army had conceded that it was not performance of official duty. Well, the newspapers got hold of it and it became a major issue. Now let me go back a little bit. In the Korean armistice negotiation, there was a provision that neither side could bring new weapons into Korea; airplanes, guns, cannons, anything like that. From day one, the North Koreans had been bringing new weapons in. When the hostilities ended, they didn't have a serviceable airplane in North Korea. By this time in 1955 or 56, they had several hundred serviceable airplanes in Korea. Everything else had been brought in in violation of the armistice agreement. So the United States had decided that we were going to denounce, I think it was Article 13a of the armistice agreement, which was the article that prohibited bringing in new weapons. We had decided that we were going to announce at the United Nations that we were going to denounce this article of the armistice agreement and say that

it was no longer binding on us because the North Koreans had violated it. Well, I was the head of a working group that was preparing the speech that the United States representative to the Security Council was going to give. It was decided that we ought to go to Korea and see things first hand. The working group consisted of myself, Howard Hensley, a lawyer from the General Counsel of the Department of Defense office, and one of my assistants, Jack Jeffries, one of my First Lieutenants. This was the boy that had the B.A., LL.B., LL.M., S.J.D., and when I offered him a job at the J.A.G. School as an instructor, he said that was the last thing in the world he wanted to do. He was a brilliant boy. He was doing all of the leg work for the group. So he, I, and Hensley were going to go to Japan and Korea to see the situation first-hand. We were leaving on a Saturday morning. Then the Girard incident occurred. Friday night I left and went home. Saturday morning there were some things I wanted to do at the Pentagon so I went to the Pentagon and I went to my office. I arranged for somebody to pick up my wife and take her to the airport to wave goodbye when I left. I was in my office working on this Saturday morning when I got a telephone call from General Jones, who was the Deputy Judge Advocate General. He said, "I want to ask you some questions about the Girard case." Then he said, "Wait a minute. The Secretary of the Army wants to talk to you." This was Wilford Brucker who was then the Secretary of the Army. He had been General Counsel of the Department of Defense. So Brucker gets on the phone and starts asking me questions about Girard. Then he said, "Colonel, where are you?" I said, "I'm at my office." He said, "In the Pentagon?" I said, "Yes." So he said, "Come up to my office." So I went up to his office and they queried me for about an hour on the various aspects of the Girard case. Then the Secretary looked at General Jones--they knew that I was leaving for Korea; I'd said that I had a plane at noon--Secretary Brucker looks at General Jones and he said, "I don't

think Colonel Levie ought to leave Washington at a time like this." General Jones looked at Secretary Brucker and he said, "I don't think so either, Mr. Secretary." Then they both looked at me. It was obvious that I was not going to take that plane that morning. So I said, "Yes, sir. I won't go." So I rushed back to my office, called my home and my wife had already been picked up and was at the airport. I called the airport and told them to bring her home and to tell the other members of the group that I was not accompanying them. They left for Korea and later came back and we did denounce the Armistice Provision at the Security Council. But I had to stay in Washington because of the Girard case. Well, the problem got so hot that it went to President Eisenhower. President Eisenhower took a very good view of the thing. He said, "Local commanders have to make some decisions on their own, and this commander made a decision. Whether it was right or wrong, he made it and it's binding on us." The legal counsel for Girard applied for a writ of habeas corpus and I think it was denied; the Court of Appeals affirmed. They applied for certiorari to the Supreme Court and the Supreme Court granted certiorari on some type of speedy procedure. Then it was argued in the Supreme Court ten days later. The Supreme Court affirmed the denial of the writ of habeas corpus. That ended Girard as far as I was concerned. But this process took a number of months and the matter was so hot that Ted Decker, who was then a Brigadier General, was sent to Japan and did nothing but monitor the Girard case for about four months in Japan.

Q. Was Girard court-martialed?

A. No. He was tried by the Japanese. The Japanese gave him something like three years and turned him loose after about three or four months. He came back to the United States. We discharged him from the Army. I talked to Ted Decker one time

and asked him if he knew what had happened to Girard and he said, "Yes. He's pumping gasoline into cars."

Q. You said Girard's commander made a decision. Was that the decision that he acted in line of duty?

A. He made the decision to withdraw the certificate and let the Japanese try him because the Japanese absolutely were adamant, and I agreed with them. If I'm on official duty and pick your pocket and take your wallet, is that a performance of official duty? That is exactly what had happened there. This is what also had happened in the MP case.

Q. Who applied for habeas corpus?

A. Somebody in the United States; his parents or friends or someone.

Q. To the Japanese courts?

A. No, to the U.S. courts. We hadn't turned him over to Japanese custody yet because under the agreement we retained custody and produced the man for trial in the local courts. So he was still in U.S. custody and the habeas corpus was to prevent us from turning him over to the Japanese.

Q. Oh, I see. So it wasn't a post-conviction writ of habeas corpus?

A. No.

Q. Sir, you were going to tell us another story that occurred while you were Chief of International Law?

A. Oh, yes. We had a case where two or three soldiers had committed an offense in Germany. It was an offense which the Germans had jurisdiction over and they refused to waive jurisdiction to us. They tried these men and convicted them. They appealed and the appeal was pending. I've always suspected that word got around to them that the appellate court was affirming such cases because the day before the decision of the appellate court came down, they took off and came back to the United States on their own. When they arrived in the United States, they immediately reported to a military installation so that it could not be said that they were deserters. They were AWOL maybe for 24 hours, or something like that. Then they filed a habeas corpus petition to prevent the United States from sending them back to Germany and turning them over to the Germans. I don't know whether that case ever reached the Supreme Court, but the lower courts held that the military had a right to take them back to Germany and turn them over to the German authorities. I thought that was very important because otherwise no country is going to allow you to retain custody until the trial is over. See, we still had custody of them because we had the agreement that we retained custody until final decision of the foreign court. If they don't appeal, then when the trial decision becomes final we would turn them over. If they appealed, we retained custody until the appeal was determined. They were in our custody while the German court proceeding was going on. They left our custody to come back to the United States. Each of these cases is important because it sets a precedent. Every other country knows exactly what's happening. They know what we do and what we don't do; what we should do and what we shouldn't do.

Q. You left the Army in January 1963 and went to teach law at St. Louis University?

A. *St. Louis University Law School. I started there in September of 1963. Naturally, my major interest was in international law. I had had an interest in international law, actually since Manila when I dealt with the prisoners of war there. Then when I was involved in the armistice negotiations, and then because I had been Chief of the International Affairs Division. Thereafter, in SETAF and EUCOM they were really international jobs, so that helped. When I went to St. Louis--this is a funny story--I got the job there. I signed a contract, then as I told you before, we went to Europe. While I was in Europe I wrote to the Dean and I said, "Let me know what courses I'm going to teach so that I can select a casebook and prepare it for September." Well, when I had been there and talked to him, he had said, "What courses are you interested in teaching?" I had said, "Well, of course, I'm interested in international law. Other than that, I'll teach any course excepting the commercial courses. I haven't had any commercial work in years. The public law courses won't be any problem." So when he got my letter, he said, "Now let's see, what did Howard Levie tell me he wanted to teach? Oh, commercial courses." So I got a letter from him that I was going to teach a four hour course in commercial transactions. International law was not available because Kurt von Schuschnigg was teaching it. Kurt von Schuschnigg had been the Prime Minister of Austria, who had had an interview with Hitler, and Hitler had pounded on the table what he was going to do to Austria--this was before the Anschluss--and had said that they were going to have Anschluss, joinder between Germany and Austria, and von Schuschnigg had agreed under the pressure and under the hammering of the table by Hitler. As soon as he returned to Vienna, he had ordered a referendum: let the Austrian people decide it. Hitler hit the ceiling and in the end, von Schuschnigg had to resign and the Germans went in to Austria for the Anschluss. Hitler took von Schuschnigg and put him in a concentration camp and he spent the*

next six years in a concentration camp. When he got out he went to the United States. He was a good Catholic, and St. Louis University is a Jesuit University, and they gave him a job in the Political Science Department. Because they had no one to teach in the Law School, he was teaching international law in the Law School also. The year that I got there, he no longer taught international law, but they had already given it to another man who knew nothing about international law. But he had prepared his lectures for his classes. He was ill at the time. As a matter of fact, he retired the following year. He came to me and apologized and he said, "I've got to keep it this year because I'm not healthy enough to prepare another course." So I taught commercial transactions and administrative law. Administrative law I liked and that was no problem. But commercial transactions, I was scared. I got a casebook while I was in Riccione and I started preparing it. I wanted to prepare the entire casebook before I started teaching because I was afraid the students would ask me a question while we were on page 10 that would be answered on page 50, but I wouldn't know the answer if I didn't go through the entire book. So I went through the entire book and prepared that course. On the ship going back, I spent all day every day, preparing for class. People would say, "Well, where is Colonel Levie." "Oh, he's in his stateroom working." I finished preparing that entire course before I got to St. Louis. So the first year, I taught commercial transactions and administrative law. Then the next year I started teaching international law and administrative law. I taught those for the rest of my teaching career. When I needed another course, I taught legislative law a two-hour course; I taught international organization, a seminar; I even taught professional responsibility one year. So I enjoyed teaching, outside of that first year when I was afraid everytime I got on that platform in commercial transactions. One summer I taught summer school. The school paid extra if you taught



summer school. I told the Dean I would teach if they would give me an air conditioned classroom. The law school, at that time, was not air conditioned. So they gave me an air conditioned classroom. I taught that course that year; I never taught summer school again. It wasn't worth the money that they paid for it.

When I was still Chief of the International Affairs Division, I started coming up to Newport, Rhode Island, to the Naval War College, which at that time had, in February, a week of what they called "International Law Week," during which the students of all of the colleges got a very heavy dose of international law. For that week the only thing they studied was international law. The Naval War College would bring in civilian professors of international law and they would bring in people from the Air Force and the Army, originally to act as observers. Then I became a panelist. When I left the Pentagon and went to Europe, of course, I discontinued that. When I got back to St. Louis, they started inviting me again as a civilian professor. I came here every year. They changed it to the fall. As a matter of fact, international law became the first thing in the course. In late August they'd have one week of international law. Then international law would be interspersed all through the year. When you'd have a war game, for example, there'd be some question in it, such as: "Can you do this legally? Can you mine the high seas?" or something like that. So that went on and one year the Staff Judge Advocate was responsible for getting these people together and for setting up the course--although the actual work was done by the Stockton Professor of International Law, which was a chair of international law in the Naval War College, to which civilian professors were invited for one year at a time and each year it would change and someone else would get it. In about 1969 or '70, I was asked if I would come. Well, the Dual Compensation

Act would have meant that I would lose a considerable part of my retirement pay and I didn't think the Navy would make it up so I said no, I was not interested. Well that following year I met this Staff Judge Advocate at a meeting of the International Law Association in Montreal and he repeated the invitation. I said, "Well, let me think about it." He said, "Well, why don't you come for an interview?" So I came for an interview and I talked to the academic advisor, who was the man responsible for making the contracts. He said, "How much are you making at St. Louis?" I told him and he said, "How much will you lose under the Dual Compensation Act?" I told him and he said, "Supposing we give you a contract which combines those two and a few thousand more?" I said, "I'll take it." They did and I came here as the Stockton Professor of International Law in 1971-1972. While we were here, we liked Newport so much that we started looking for a home. I technically had four more years to teach at St. Louis University Law School before the required retirement age. I don't know whether the federal statute had been enacted at that time or not, but I didn't care about it. I was going to retire when normal retirement age came. Just before we left we found this house that we're sitting in now and we bought it. We went back to St. Louis, and rented the house to Naval War College students each year for the four years that I was supposed to stay there. They asked me to stay on after retirement age and I stayed on for one year. So for five years, this house was rented to Naval War College students. In the fifth year, Colonel Jack Murray who had been the Commandant of the JAG School, had become the Dean of my law school. He again asked me to extend another year. I said, "Jack, last year I was psychologically psyched for retirement and you asked me to stay on and I did. This year I'm again psyched for retirement and I don't want to become unpsyched so I'm going to quit." So I ended my teaching at St. Louis University in 1977. I had been at St. Louis University for

fourteen years then and I came here permanently. Since I've been here, I have taught an elective course, a 30-hour seminar on the law of war, at the Naval War College on, I think, four occasions. I don't use the word "law" because nonlawyers don't like to take a course with the word "law" in it. So I called it "Responsibility in Warfare" and then they'd take the course. I have lectured there on occasion since 1977, for every class in the Naval Staff College, which is the junior foreign officers course, it has about 25 officers from 25 different countries, one U.S. student and 24 students from other countries. I lecture to them on the law of war. I give them a two hour lecture and the next day I conduct a seminar on the law of war for two hours. Their courses are twice a year for five months. That means I've done it twice a year since 1977 for ten years, so I've done it twenty times. I suppose as long as I'm here I'll continue to do it. That's my association with the Naval War College. When I had the Stockton Chair here, George Washington University had professors in place here. I think they had three professors who gave courses at night, which Naval War College students could take. With the credits that they got from the Naval War College, plus the credits they got from the courses they took from these professors, George Washington would give them an MA. When I left here in June of 1972, I was fortunate that my contract was over on June 30th. On July 1st, Admiral Stansfield Turner became the president of the Naval War College. He immediately abolished the international law instruction and he discontinued the George Washington University relationship. For many years, the students came to the Naval War College, took the Naval War College work, and that was it. The Naval War College cannot give a degree, although there has been talk of that and I discouraged them. I told them it would take them 20 years to get approval for a degree program. I was not consulted officially; this was just some people talking to me about it and relating what was going on. Anyway, in 1983

they started looking around for a local connection that they could make which would enable the students to get a masters degree while they were here. It's very important career-wise for two reasons. Number one, it showed that you have an interest in things, generally--community interests and that sort of thing. Number two, if that goes on their record, they can get a personnel designator, which is the Army equivalent of a MOS--for example. If Naval students took courses in international relations they earned a personnel designator in the international relations field. Which meant, if they were assigned to the Pentagon they might get into something like being in the Office of the Assistant Secretary of Defense for International Security Affairs. Something which had an interest in world-wide matters. So after a lot of investigation and discussions with a number of the local schools, they agreed to have the program with Salve Regina College. Salve Regina College is a college located here in Newport. It's run by the Sisters of Mercy. When I was here in 1971-72 as the Stockton Professor, it was a girls' college with 400 students and one building. It now has between 2,000-3,000 students; it's coeducational; it has 27 buildings; it has one of the most beautiful campuses you've ever seen. When I teach there I look out over the Atlantic Ocean from my classroom. As I say, they started this program in 1984. Under the New England Accreditation Association, which is the union of all of the universities and colleges in New England--it's the accrediting agency--if students graduate from the Naval War College they're entitled to 21 credits. They need 30 for a MA. So if they take three 3-hour courses at Salve Regina, they will get nine hours and they will get a Masters Degree. The Naval War College had a trimester system, so Salve Regina instituted the trimester system in their graduate program. Their undergraduate program is still semesters. But, the graduate program, which is given at night, is a trimester program and War College students take

three, 3-hour courses there and they get their Masters Degree. There are two programs: a Management program and an International Relations program. I was asked to teach Public International Law in the International Relations program and I have taught it. They wanted me to teach it each trimester and I told them that would be too much. I originally taught two trimesters. Now I teach one trimester. Public International law is of major importance because the post graduate school in Monterey, which has some jurisdiction over these personnel designators, has said that in order to get the personnel designator, one of the courses that you must take is Public International Law. So every student who wants it must take Public International Law. Up until then I usually had approximately 12 students in my trimester class. When that word got out, in the trimester last fall, I had 27 students. So you can see that this personnel designator is of interest and importance to the students. So I have been teaching at Salve Regina regularly, and at the Naval War College intermittently since I've been here in Newport.

My other connection with the Naval War College was this: while I was at St. Louis University we used to go to Europe every other year. The first thing we would do is rent a house in a development in Spain, in a town called Estepona, which is located about twenty miles from Gibraltar. My wife had been to Gibraltar; she took a cruise with her mother many years ago and she had been to Gibraltar, but I had never been there. So I said one day, "Let's go to Gibraltar." We drove the half hour drive to Gibraltar. We were going to drive in and I think you leave your car and walk across. There's a fence there with a gate. But it was being picketed by taxi drivers and they waved us away. We found that they were not allowing anybody to cross into Gibraltar by land. This was late in our stay there so we thought well, next time we come we'll take the ferry from

Algeciras, the Spanish town across the Bay. So two years later when we came back, we went to Algeciras, or we inquired about getting the ferry at Algeciras and we were told there was no ferry. So I said, "What do you mean there's no ferry? How do people get there?" He said, "You can't." Well, that intrigued me so when I got back to the United States I started checking into it. I found that Spain and Great Britain had been having a dispute over Gibraltar for some years. As a matter of fact, probably the dispute could be said to go back to 1704 when the British took Gibraltar and 1713 when the Treaty of Utrecht gave it to them. Recently it had gotten hot and the Spaniards had gradually cut off all communications with Gibraltar. So the only way you could get to Gibraltar was to go to Africa and fly back. From Africa to Gibraltar you could fly. You couldn't even fly from England directly, because you would have had to pass over Spain and they wouldn't allow any plane passing over Spain to land in Gibraltar. I thought that was quite interesting and there were a lot of legal aspects involved. So one day I was talking to Captain Hugh Nott who was then the Director of the Center for Advanced Research which is a program that the Naval War College has. And I said, "Hugh, you ought to have someone study the status of Gibraltar. That's an important naval base." He said, "Why?" I told him what had happened to me and that I'd found a great many legal problems involved. So he said, "Well let me think about it." About two months later he called up and he said, "Would you like to take it on?" I said, "Sure." He said, "Submit a budget of what it will cost for you to produce a paper. If you produce a book, we'll print it." I am probably unique in the academic field. I never applied for a grant the whole time I was teaching. That's very unusual. There are a couple down at the University of Virginia, where you work, who are the greatest grantsmen. If I wanted money, I would go to them and say, "How do I get it," and they would tell me how to get it because they can get

money for anything. It's a knack. It's an ability. You can't just pick up and say, "I'm going to apply for a grant." You have to know how to do it. Anyway, I talked with them and I submitted a budget and I got word that it had been approved and that I could start in on it anytime I wanted. So I had the War College write to the Defense Representative at the United Nations who contacted the people representing Spain and Great Britian at the United Nations, who contacted their foreign officers and defense departments in Gibraltar, and notified them that I was interested in the subject and that I would like to make appointments to talk to knowledgeable people in their departments. That was all arranged. We flew to London and stayed in London a week while I interviewed people in the Ministry of Foreign Affairs and the Ministry of Defense. Then we flew to Madrid and I interviewed people at the Ministry of Foreign Affairs there. Then to get to Gibraltar we had to fly to Morocco. From Morocco we flew to Gibraltar. In Gibraltar, the Governor General who is also the Commanding General, was most helpful. He personally took me on a tour of Gibralter in his Land Rover, including a trip through the tunnels there which are more expansive than on Corregidor. I talked to the civilian government there, the Prime Minister, and to the opposition people, and I talked to private citizens. My wife would want to buy something and we'd go into a store and we'd start talking to them about the situation with Spain. It's a strange situation because most of the women there are Spanish. Most of the native Gibraltarians have married Spanish women. They used to cross the border to work there every day. They'd be salesgirls, they'd be teachers, anything. They'd become acquainted with the men and they'd marry. But even the Spanish women didn't want to come under Spain; they were pro-British as far as government is concerned because they felt that they were better off. They were better off financially because Great Britian was underwriting a good deal that Spain would not have

underwritten if they were just a part of Spain. Anyway, we went back to London and I spent another week at the British Museum. They have a tremendous library there; it's like the Library of Congress. What I couldn't find there in original records, I went to the Public Records Office and had to decipher papers that were handwritten in the 18th century. It was slow work, but it was very interesting and I enjoyed it. I came back and wrote the book. By that time, the Center for Advanced Research had become the Center for Naval Warfare Studies. Nott had died and had been succeeded by someone else. They had no interest in anything excepting naval warfare studies. They took my paper, thanked me for it, gave me what I hadn't gotten before from the grant, and put the manuscript on a shelf. I thought that it was worth publication so I wrote them and said, "If you are not going to publish it as I was told you were going to do, I would like permission to have it published commercially." After some delay I got a telephone call saying, "It's okay. Come up and we'll hand you your manuscript back." So I went up and they gave me the manuscript back. I wrote to a publisher that was interested, sent him the manuscript, and it was published by Westview Publishing out in Boulder, Colorado. So that was the way that book got published. When I had the Stockton Chair, it had been the custom--it was not included in your contract, but it was the custom--that the Stockton Chair would produce a book which would be published by the Naval War College as a part of the so-called Blue Book series. The Blue Book series dates back to maybe 1903, or something like that. At that time, it was edited by a professor from Brown University who used to come down here and do the international law work. But in about 1960-61, a professor by the name of Kelsen, who was one of the most famous international law professors in the United States and taught at the University of California, had the Stockton Chair. He had a manuscript on aggression which he gave to the Naval War College while he was here and said, "Here,



you can publish this." They published it as a Blue Book, which changed the character of the Blue Book from studies which would pose questions and then give the answers, or would give a war game situation and then discuss it. It changed to a monograph system. So from that time on, each Stockton professor in the '60s had produced a monograph on a subject of interest to the Navy. For example, Tom Mallison, who was a professor of international law at George Washington University, had produced a book on submarine warfare. Professor Alford, who was a professor at the University of Virginia and who was a holder of the Stockton Chair, had written on economic blockade. Professor Carl Crystal, from the University of Southern California, had written on space. Unfortunately, in about 1968 or 1969, the Stockton Chair holders had become deficient and had not produced any Blue Books. In the 1970's some were produced. I was here in 1971-72, and I proposed to the President that I would write a Blue Book on prisoners of war. It was approved and I started working on it then. It took me a number of years because I was teaching full time. But in about 1977 they had the completed manuscript. They started editing then. Early in 1979, the Blue Book was published. It was volume 59 of the series. Actually, volume 58 was about six or seven years before that. While I was working on that book, I found that many of the sources that I had to go to were very difficult to find. For example, any number of them I had found in the library of the Peace Palace in the Hague, and I was never able to find them in any library in the United States. So I thought there was a need to make these documents available. I asked the Naval War College if they'd be interested in a volume for the Blue Book series on the documents on prisoners of war and they said they were. Based on the work that I had done in the past and some additional work, I produced another Blue Book which was volume 60 of the series. That was published within 12 months of the first one.

Q. The two books you are referring to are "Prisoners of War in International Armed Conflict," and "Documents on Prisoners of War?"

A. That's right. They're volumes 59 and 60 of the International Law Studies Series, the so-called "Blue Book Series," published by the Naval War College.

While I was teaching, in 1974, a diplomatic conference was called by the Swiss government, to discuss updating the law of war. I just thought of something that should precede this because it leads right into it.

While I was Chief of the International Affairs Division, to show you that we were not just doing status of forces matters, in 1949 four conventions on the law of war had been drafted in Geneva. The United States had not ratified them. As we discussed yesterday, in Korea we announced that we would be bound by the principles of those conventions. They had been ratified by a number of countries, but by none of the countries involved in Korea. All of the other United Nations member nations had agreed to be bound by the principles. North Korea had agreed to be bound by the principles. But we all know that that didn't mean a thing as far as they were concerned. When I got to Washington in 1954 as Chief of the International Affairs Division, the United States still had not ratified those conventions. But they were in the process. My office became the lead office in preparing the presentation to the Senate in getting the Senate's advise and consent to the ratification of these four treaties. About a year after I got there, we went before the Senate Committee on Foreign Relations and made our presentation. The Committee recommended that the Senate advise and consent to ratification. The Senate did, and President

*Eisenhower ratified the treaties, and the United States became party to them.*

*Q. What four conventions are we talking about?*

*A. We're talking about the four 1949 Geneva Conventions. Convention Number 1 deals with the wounded and sick of the armies in the field; Convention Number 2 deals with wounded, sick, and shipwrecked at sea; Convention Number 3 deals with prisoners of war; and Convention Number 4 deals with civilians.*

*Well, those conventions were a tremendous advance. They were inadequate in a major sense that they did not give protection to civilians against warfare itself. They only gave protection to civilians if they came into the hands of an enemy. That is, military occupation or something like that. Situations involving enemy aliens in your territory when the war breaks out. The International Committee of the Red Cross started working on updating those conventions and also the 1907 Hague Conventions, which were the last conventions that had been adopted dealing with methods and means of making warfare. The '49 Geneva Conventions dealt with only the protection of persons. They didn't say that you couldn't use gas or anything like that. The 1907 Hague Conventions and the 1925 Geneva Protocol were the only things that controlled methods and means of warfare. So the International Committee of the Red Cross wanted to bring both of those up to date. After many, many preliminary meetings, they produced drafts. Then the Swiss government called a diplomatic conference in Geneva in 1974 to use this draft as a basis for drafting a new protocol to the '49 Conventions, in addition to the '49 Conventions. Well, that proved very difficult because when the 1949 Conventions were drafted, there were about 60 countries in existence and present. When the 1974 conference met, there were 126 nations in*

attendance. That meant that you had to get agreement of two-thirds of 126 nations before you got approval. So, it required a lot of negotiation and a lot of wheeling and dealing to get an agreement that would not be so far out that nobody would ratify it. Well, it took four years to do that. In 1977 they ended up with two protocols: Protocol One which updated the law of international armed warfare; and Protocol Two which deals with civil wars. The Protocols were signed in 1977 by some hundred nations or more, including the United States. At that time, we had the Carter administration. There was a lot going on and the Protocols were sidetracked. This happens frequently with treaties. They take a long time to get through the ratification process. By the time that anybody was able to do anything, the Reagan administration was in, and the Reagan administration made a study and decided that we would not ratify Protocol One. The Reagan administration said that it gave protection to terrorists. Now actually, what happened was that Protocol One has a provision bringing national liberation movements under international war instead of under civil war. It's that provision, primarily, that the Reagan administration is concerned with. Personally, I don't like the provision, but I do not believe that it would protect terrorists. There's no question, it would give the benefit of the international law of war to national liberation movements. Well, where are the national liberation movements today? Palestine and Namibia. Would it make that much difference? Israel is not going to ratify either of the protocols so it would not be involved insofar as Israel and Palestine is concerned. South Africa is not going to ratify, so it would not be concerned so far as Namibia and South Africa are concerned. There is no national liberation movement, unless you talk about Timor, which I don't consider to be a real national liberation movement. Nevertheless, they said that it would protect terrorists, so the United States is not going to ratify Protocol One. It is going

to ratify Protocol Two. While this conference was going on, because of my interest in international law, and particularly in the law of war, I had arranged with the Secretary General of the conference that I would get copies of all the documents produced at the conference. So I received thousands of individual mimeographed documents during 1974, 75, 76, and 77. When a country has a diplomatic conference of this kind, when it's the host, when the conference is over it publishes a complete record of the conference. Everything that transpired there, or practically everything is published. Sometimes some of it is, I won't say censored, but left out. The Swiss government had done that in 1950 with the 1949 conference. It was published in four volumes. They call it three, but it's four separate volumes; one volume has two parts, each one of which is about 500 pages so I consider that to be four volumes. If you want to trace the negotiation of a particular article, it can take you days to trace it through and you're not sure then that you will actually have traced the negotiating history. Now that conference took two months. This 1974-77 conference had taken 3-4 months, four times. There was no question but that it was going to be much greater than the four volumes for the 1949 conventions. I thought it would be of value to researchers if someone put it together in a logical sequence. When a committee meets, you have the whole committee meeting, and then another committee meets and you have that meeting; both of them maybe discussing the same thing; each of them maybe discussing six or eight different problems at that same meeting; and it's all merged. If you don't have a good index, you won't find it. If you do have a good index, you may find it or you may not. So what I did was I took all of the documents that the Secretary General had sent to me and I started going over those documents, making duplicates when more than one subject was involved, and then separating them to deal with each article. That took a considerable period of time. I started it in '75

or '76. It took me until about '79 to actually finish the work. Actually, I finished the first volume by that time. Oceana Publications had agreed to publish it, so I sent them volume one. They said, "Send us one every six months." I sent them volume one before the Swiss government had even finished their work. In 1980, I obtained their printed version, which is seventeen volumes, as compared to the four volumes of 1949. Thereafter, in preparing my work, I found their 17 volumes were published the same way as the 1949 Conventions. I found, for example, in Article 1 of Protocol One, I had references to seven different volumes of the 17 volume set. But thereafter, in preparing volumes 2, 3, and 4, I gave a cross-reference to the official records so that anyone can use my set of books. But if a researcher wants to cite the official version, he doesn't have to start looking in the index of the official report. If he does, he won't find it. It's a very poor index, too.

Q. You're talking about your four volume work on the Protection of War Victims.

A. That's right. It's Protection of War Victims, Protocol One to the 1949 Geneva Conventions. Now, my interest was only in international wars. Someone wrote a review of those four volumes and said how valuable it was to the researcher and that it was a shame nobody was doing it for Protocol Two on civil war. I still was not interested until I learned that the United States government was going to submit Protocol Two to the Senate for advise and consent for ratification, but not for Protocol One. I said well if the United States is going to ratify Protocol Two, there's going to be interest in Protocol Two. People will want to do research on it. At the present time, Protocol Two is everywhere in those 17 volumes published by the Swiss government, and would be as difficult to trace as Protocol One. Even more difficult, because for every hour of discussion

of Protocol One, there was 5 minutes of discussion for Protocol Two. So, it's distributed in little tiny pieces all over the 17 volumes. So I wrote Oceana and asked if they'd be interested if I did the same thing for Protocol Two as I did for Protocol One. I could do it in one volume, because the volume is not that great. I said, however, the President is probably going to submit it to the Senate for advise and consent for ratification in the near future. If you're going to print it, I would submit it to you by March and I would want it out for availability by May of 1985. So they said, "Impossible. It would take us a year to get it out." I said well I'd try to find a publisher who could do it faster. I wrote to a number of publishers, and Martinus Nehoff, which is a big international law publisher located in Amsterdam wrote me and said they were interested. A lot of time had passed by now. I said, "How soon could you do it." They said, "If you get it to us by the end of the year, December '85, we will have it out by the first quarter of '86. So I said fine. I went to work on it and I finished it and I got it to them in December of '85. They kept their word. On March 25th I got a letter saying the book is out, we're sending you a copy. It was published in March of '86.

- Q. That book is the Law of Noninternational Armed Conflicts?
- A. That's correct. That is the negotiating history of Protocol Two of the 1977 Protocols.
- Q. In Protocols One and Two, didn't some of the Arab countries insert some provisions specifically directed against Israel?
- A. No. The only thing would be the provision I had mentioned on national liberation movements. That was certainly directed to help the Palestine Liberation Organization, among others.

Although, frankly, I think they were more interested in Namibia. The African countries were more interested in Namibia than they were in Palestine. But the only thing that they knocked Israel down on, really that was hard, was, you know the Red Cross Symbol. Now, the Red Cross symbol, when it was adopted, was adopted not as a religious symbol, but as a courtesy to Switzerland where the first conference in 1864 took place. Switzerland has a white cross on a red background. So just as a recognition of what Switzerland had done in calling the conference, they adopted the red cross as a symbol, the red cross on a white background. So it had no religious connotations. But when Moslem countries became parties to it, they objected to a cross. So they said, "We're going to use the red crescent." Then when Iran became a party to it, they said, "We're going to use the red lion and sun." So you had three symbols, the second two based on religious reasons. When Israel created its Red Cross organization, and gave it a name--I don't know what the name of it is, but I suppose it means red cross in hebrew--they adopted the Star of David as their symbol for the same thing, to protect wounded, sick, hospitals, and so on. They want the Star of David recognized the way the crescent was recognized and the red lion and sun was recognized. The Moslem countries have prevented that. Now, the ICRC is not anxious to have it done either, because the ICRC thinks that everytime you adopt a new symbol, it dilutes understanding. They would prefer that everybody use the same symbol. Since the red cross is so well established, I'm sure they would prefer that it be the red cross. But, they're not going to get it. So, Israel announced that even though the conference had refused to approve the Star of David as the symbol for Israel, they were going to use it and they expect it to be recognized. And they have, and it has been recognized. They have a Star of David on their ambulances, for example. In their war with Egypt, that was recognized by both sides. As a post script to that, when Khomeni took over Iran,



*they discarded the red lion and sun and adopted the red crescent of again.*

*Q. Do you recall there being any serious objections to the U.S. Senate approving the four conventions of 1949?*

*A. There were no objections. The only objections were not objections to the substance. It has a provision limiting the use of the red cross, for example. Former Senator Millard Tydings of Maryland appeared on behalf of Red Cross Shoes, and something I'd never heard of, Red Cross Mattresses, I think it is. A number of companies like that. When we had ratified the 1929 Convention, which was the predecessor of the 1949 Conventions, they had similar provisions. The United States had observed a grandfather clause, in effect. Anyone who had been using the red cross could continue to use it. They did the same thing for the '49 Conventions. That was the only objection. No one appeared in objection on the merits. The only witnesses in support of it were Brucker, who was then the General Counsel of the Department of Defense, and several various of us who were there to answer the senators' questions. One funny thing I might mention to you about that . . . I don't know if you're familiar with the Bricker Amendment. Are you familiar with Missouri v. Holland?*

*Q. Yes sir.*

*A. Missouri against Holland seemed to indicate that the President could enter into a treaty on any subject and that it would be legal merely because it was a treaty.*

*Q. Just for the record, Missouri v. Holland was the migratory duck case decided by the U.S. Supreme Court?*

- A. Yes. The migratory birds. We're always amused on that case here. I always tell my students about that case because the Naval War College is inundated with those Canadian Geese, or ducks, whatever they are. They're all over the base. There's a big grass space that goes down to the water and they eat grass. That's their feed. So they will congregate there and stay much longer than I'd expect them to. I'd expect them to go on further south, but they stay here a very long time, both in the fall and in the spring.

Bricker, who was a Republican senator from Ohio, had introduced an amendment to the Constitution which would have severely limited executive agreements and would have severely limited the treaty-making power also, and would have required various enabling acts for treaties. I won't go in to all of the ramifications of it, but it took a long time to reach the point where it was finally killed completely. I think it would have been a disaster for our foreign relations if it had been adopted. One of the things that he mentioned was that very frequently, advice and consent to a treaty was given with a handful of senators on the floor of the Senate. That's a club, you know. They go where they want to and do what they want. Sometimes they do the nation's business on the floor of the Senate, but probably 90% of their work is done in their offices. I don't mean they don't work. I would never want the job. Each of them has got to please at least several million constituents. As I say, it was finally killed and one of the arguments was that it meant that a handful of senators, by giving advice and consent to a treaty and the President ratifying it, make it the supreme law of the land, which it is under the Constitution, without the House having anything to do with it, and with only about six senators having anything to do with it. So when the 1949 Geneva Conventions had cleared the Senate Foreign Relations Committee, as I mentioned, and went to the floor of the Senate,

*I went to the Senate to hear the debate. The majority leader was the only member of the Senate present. The Vice President was sitting there. I said, "Oh my God, this is going to be fun for the Brickerites. They're going to be able to cite here that there's not one senator present excepting the majority leader."*

*Q. What year was this?*

*A. 1955 or '56.*

*Q. Richard Nixon was the Vice President?*

*A. Yes. Well, much to my relief, the majority leaders suggested the absence of a quorum. They rang the bells and the senators came flocking in and there were 70 or 80 of them present when this matter came up for the advice and consent of the Senate.*

*Oh, two other books that I want to mention. Number one, after World War II in the war crimes trials, in practically every case--I would say in at least 80-90% of the cases--the defense of superior orders was raised. Now that was the defense that "I did it because I was ordered to do it by my superior officer and if I had not done it, I would have been in a lot of trouble." Well, if you adopt the superior orders defense, it means the soldier says the Captain told him, the Captain says the Colonel told him, the Colonel says the General told him, the General says the Minister of Defense told him, and the Minister of Defense says Hitler told me, and Hitler's dead, so nobody's responsible. So when the Allies drafted the charter for the Nuremberg Court, the International Military Tribunal that's set in Nuremberg--that was drafted by four powers in 1945 in London--Justice Jackson was the U.S. representative. Russia, the Provisional Government of France, and Great Britain were the other three countries. They had a provision that the defense*

of superior orders would be unacceptable, but that it might be raised in mitigation of punishment. In other words, you didn't have mens rea, you did it because you were ordered to do it. That didn't excuse you. But, you didn't have mens rea so instead of giving you 10 years, they'd give you 3 years or something like that. That was true of practically every war crimes trial that was tried. It was not accepted as a defense, but it would be considered in mitigation of punishment. When the preliminary work for the 1949 Conventions was being done, and when it went to the International Conference of the Red Cross, which is the last body that the ICRC goes to with a draft before they ask the Swiss government to call a diplomatic conference, there was no provision with respect to superior orders in it. But the Conference said to the ICRC, "When you submit this to the diplomatic conference, submit to them a provision with regard to superior orders." The ICRC did that. They gave, I think, three alternatives. The Conference rejected all three. Now, did that mean they were rejecting the rule that superior orders would not be a defense? Were they saying superior orders should be a defense? You could argue either way. When they prepared the draft that was used for the 1977 Protocol Number One, they had a provision with regard to superior orders. The Conference rejected it. The negotiating histories of that Conference show that some countries objected to it because it didn't go far enough in banning the defense. Others objected to it because they felt that it would affect military discipline. Others objected to it because they thought you ought to have the defense. But it was rejected. In my four volumes, I only included the negotiating history of provisions that were adopted. I thought that this was important enough that there ought to be a negotiating history on that provision. So, I wrote to Oceana and I said--no, I saw the publishers down at the Meeting of the American Society of International Law. I said, "I have prepared the negotiating history of this

rejected provision. If you will publish it as a supplement and give it to everybody that bought the original books, I'll waive royalties." So they said, "We'll think about it." They wrote back and said, "If we give it to people, most of it will go to libraries and the libraries will throw it away. They don't keep brochures. If we sell it to them, they'll have it in a hardcover bound volume, and they'll keep it. So, we'll sell it to them for a nominal sum if you'll waive royalties." I said, "Ok, I'll do it that way." So they published a supplement to the four volumes, dealing with the history of the defense of superior orders.

Back in 1870, or something like that, a man by the name of Field, who was a lawyer in New York, published "Outlines of an International Code," in which he took what he believed should be provisions of an international code, and he put them in legislative form, then he'd have an explanation of why he thought that ought to be in there. I didn't want to go to the extent of drafting my own law of war, but the law of war is contained in maybe 25-30 different treaties. Some of it is not even in treaties. Some of it is still customary international law; the customary international law has been included in things like General Assembly Resolutions, which are very definitely not law, but they demonstrate what the General Assembly believed customary international law to be. I thought it would be a good idea to try to get that all together. For a couple of years, I worked on first getting all of the law in any form in which it had ever been presented. In other words, if it was a customary rule, but had never gotten official written form, I wouldn't take it. If it had just in some way received written form, I put that all together and then I broke it up functionally. Now, if you want something, you might go to the 1907 Hague Conventions, you might go to the 1925 Convention, the 1949, the 1977, or there might be something on the same subject

in all of them. So I separated them functionally, the way you would in a Code, and I put together the provision that was taken from the Convention or whatever it might have been taken from, a statement of a source or sources, and then a comment of mine on it. My comment might be one paragraph, or it might be five pages, depending on the importance of the subject and the controversy of the subject. I put that together in two volumes called, "The Code of International Armed Conflict." It does not deal with civil wars, only international armed conflict. Oceana published that as a two-volume set of books. "The Code of International Armed Conflict," I should say.

Q. Do you think your story about mine warfare is important enough to put here?

A. Sure. That's a good story. Well, when I had the Stockton Chair, I was asked to give a talk to the first class of the Naval Staff College. This was the same college I mentioned before; the junior foreign officers. It was started in 1971. That was the first class. I was asked to give a lecture on mine warfare at sea. Well, I didn't even know they had mines at sea. So I started doing research. It became very interesting. I got some classified material from Washington. I got reviews that had been made of mine warfare during WWII and WWI. I wrote a lecture on it, which the Naval War College subsequently published in The Naval War College Review. That's the publication of the Naval War College. It was a monthly publication, but it's now published about 6 or 8 times a year. That was the last article I ever did on Naval warfare. In 1983 or '84, the Naval War College was the host for an annual meeting which is held between operators and lawyers, to get the operators to understand legal problems, and to get the lawyers to understand operational problems. It's a very good thing. It's tri-service, or four service, since the Marines are

involved in it too. It's given every year and a different service is the host every year, and this year it was up here. So, I attended it as an invitee. An Admiral who commanded the Mine Warfare Command in Charleston, South Carolina, gave a lecture on mine warfare. One of his slides was an extract from my article that had been published in The Naval War College Review. So when it was over I went up to him and I said, "Admiral, I want to thank you for quoting me. I didn't know that I was such an expert." He said, "Did you write that article?" I said, "Yes." He said, "Why don't you write more on the subject?" I said, "Well, I don't know anything more. I used it all up." He said, "Come down to Charleston and we'll teach you, because we want outsiders to write about it." This Admiral was quite a salesman for mine warfare, which is what they needed because it's the orphan of the Navy. So about six months later I wrote to him and said, "I'll be available if I can come down for a course." He had had his Aide give me the dates of various courses. There was a two-week course given at a time when I was free and I wrote down and asked could I attend that. He said to come ahead. So I went down to Charleston and I attended the two-week course. It's given to operational officers who don't know anything about mine warfare. They go back to their units and then become the mine warfare officer of the unit. I took the course and came back here and started to write a book. I did research, actually. For a year I did research. That's all research on mine warfare. [I'm pointing to a very large box with about 100 envelopes in it.] I wrote one chapter and I found I was stuck. I just couldn't get into it. I thought well maybe I'd had too much research on mine warfare, so I'd put it aside and do something I had been intending to do for a long time. That was to prepare a bibliography on the law of war. What incited me to that was that Oceana, as a courtesy, sent me a bibliography on international law. First thing I looked at, of course, is the

law of war. They had 42 entries on the law of war. I wrote them a letter and I said, "I have at least ten to twenty times that number of entries in my own library, and I only have a small percentage." They said, "All right, prepare us a bibliography on the law of war and we'll publish it." So, for the past four or five months I have been working on a bibliography on the law of war. I've taken things from footnotes and articles; I have the complete Military Law Review, I've been through every volume of that, I don't even rely on the indexes; I have the Army Lawyer; I have the American Journal of International Law; in addition to a library of about 1000 books in the international law field of which maybe 200 deal with war. I have been working on that since last summer. Unfortunately, my wife got sick and that put me back a month. I was suppose to have the manuscript completed in February. Oceana said, "Ok, March will be alright." So I'm going to have it completed in March. I have checked every book and every article available, either in my own library or at the Naval War College Library, which is a tremendous international law library. I still have about 100 books and about 300 articles appearing in legal periodicals, which I have not found. I'm going to spend all of next week at the Harvard Law School, going through their library to check it. Because I will not cite a book or article unless I'm familiar with it or have seen it and at least scanned it. I can't read every article. I've got 100 books and 300 articles. But I can scan it to see that it's well written and that it presents some worthwhile thoughts. So I'm going to spend next week up at Harvard. When I come back, I thought that I would immediately take the Harvard work and put it into my manuscript. Unfortunately, that following week I'm going to Pisa, Italy to deliver a paper. When I get back, it will be mid-February and I'm going to get to work on that and I hope to get them the manuscript to that book by March 1st. I don't want to give you the impression that I became interested in prisoners



of war when I wrote the Blue Book here at the Naval War College. I told you I became interested in prisoner of war problems at the end of WWII when I was in Manila and all the prisoners were coming through there. Subsequently, I wrote articles every year for a number of years for the American Journal of International Law on prisoner of war problems. When Vietnam occurred, I wrote an article on prisoners of war in Vietnam. Then a Princeton professor wrote an article; he was one of the members of one of the committees that thought that North Vietnam was right and that we were hounding poor little people. He went to Hanoi one time with some other people in his committee, and they brought back two officers, I think it was. He wrote an article praising this system of having these anti-war groups go to Vietnam and bring back prisoners of war. When he wrote about it; his reputation was such that the Journal had to accept it. He is a very well known person. He's probably edited 20 books. But they didn't want it to stand unanswered. So the editor-in-chief called me and asked if I would write a reply to it. I did.

Q. Who was the individual who wrote the article?

A. The professor at Princeton, Richard Falk. The editor-in-chief was then Dick Baxter, at Harvard. He later became a judge of the International Court of Justice. He called me and asked me if I would write a reply to it. I said yes. He sent me a copy of it. Falk had written a great deal about how the Convention should be amended to provide for this type of thing; for repatriation during the course of hostilities. Originally I started out by saying it would be a good idea if before anyone writes an article like this, they read what they're writing about, because there is such a provision in the Convention. Then I started to think twice and I called Dick Baxter and Dick said, "I have found that the best way to answer somebody is on a very high level. Don't take them apart for the mistakes

they've made." So I took all that out and I toned the thing down. It was published in the following issue of the Journal. So, all told, I've probably written about a half dozen articles on prisoners of war, in addition to the two books.

Q. In line with that, were you involved with supervising or overseeing the exchange of prisoners during the Pakistani-India War?

A. I had written an article in which I condemned India for retaining the prisoners of war after the cessation of hostilities, because they're parties to the 1949 Third Convention, and that specifically says, "Prisoners of war will be released and repatriated upon the cessation of hostilities," and hostilities had ceased. So I wrote an article which appeared in The American Journal of International Law condemning them because of the fact that what they were doing was they were saying, "We won't give you back the prisoners of war until you agree to exchange Bengali civilians." The Bengali civilians wanted to leave India and go to Pakistan because they were Muslims, and the Bengali civilians who were Hindus wanted to go to India. But I said, "This is a political matter and you can't have a political matter affect repatriation." The Pakistani's knew, then, my thoughts on it. When it actually started, after agreement was reached and they were having the exchange, the Indians were sending only one railroad train of prisoners a week. They said that was all they could afford to send, but I don't know whether they just wanted to delay further. When that started, the Pakistani government said if I came over, they would take me to the place where the exchange was happening, I could see what was going on, and I could talk to the returned prisoners of war, which I wanted to do. Well I was just coming up for sabbatical, so I said, fine, I'll go in '74. I was going to have the spring semester off, so I said, "I'm finished at the

end of February, so I can come over in March." So I went over to Pakistan. The exchange took place at a place called Wagah, which is about 15 miles east of Lahore. Incidentally, I might add as an aside that we were entertained by this Major General that I've mentioned from the Khyber Pass; he had become a Lieutenant General and was Military Governor of the Punjab. When the military government went out and Bhutto came in, Bhutto retired him immediately. But, he still carried a lot of weight because to everybody around the town, he was still the Military Governor. He entertained us while we were in this town.

Q. This was the Pakistani General that you had befriended when you were at the Command & General Staff College?

A. Yes. And who had commanded the division in the Khyber Pass, that I wanted to visit.

Q. Do you recall his name?

A. Yeah, Atitürk Rahman. Everybody called him Turk. Wonderful fellow and a wonderful wife. He's got a daughter who's a doctor now. He had a luncheon. When we had lunch, he had about 20 retired Pakistani officers there, everyone of whom had attended the Command & General Staff College. They took me to Wagah. At Wagah, there was a big open space at which a line was painted. If you were on one side of the line, you were in Pakistan; if you were on the other side, you were in India. The people would be brought in. The ICRC were the only participants who could walk back and forth across the line. When the train arrived, the prisoners were checked off by the ICRC as they got off the train, then they crossed the line, then the Pakistanis would check them in and put them on buses and take them to a camp they had nearby. I stayed there for several hours. Then they took me to the camp and gave me an opportunity to talk to

some of the men who had just come back at that time. They would get them out of there as fast as they could. That was just a place to give them clean uniforms, a bath, and that sort of thing. It was a very interesting experience. Of course, everything had been done at that point. It wasn't even an exchange because the Pakistanis had given back all the Indians they had captured on the western front, a year or so before. These men had all been captured in what is now Bangladesh, when the Pakistani forces in Bangladesh surrendered. There were 90,000 of them, of whom about 20,000 were civilians that were really not prisoners of war.

Q. You were a law professor at St. Louis University for how long?

A. Fourteen years.

Q. You were telling us the other night of an incident involving your involvement in some of the Jesuit Canon Law.

A. Are you sure you want to get into that?

Q. Sure. It's an interesting story.

A. Well, St. Louis University is a Jesuit University and the administration is Jesuit. At the present time, like all Catholic organizations, they have trouble getting priests, so most of the faculty are now lay. As a matter of fact, at the Law School we had one Jesuit when I got there and none when I left. But the President of the University was, of course, a Jesuit. Worldwide, the Jesuits meet only when they have to elect a new Father General, when the Father General of the Order dies. The Father General of the Order had died, I guess it must have been late in the sixties or early in the seventies, and the President of the University and the head of the Province of

Missouri were the two delegates from this area that went. They were in Rome for two or three months at the meeting and elected a new Father General. Maybe I should make it clear that I'm Jewish and I had nothing to do with the Order, and so forth. This is all by hearsay. But when they came back, I got a telephone call from the office of the President saying that he would like to see me at 2:00 p.m. that afternoon at his office. When I got there, there were two other members of the faculty, one a political scientist and one a philosopher; I guess he was also a theologian, but he was a civilian, not a priest. The President started to tell us about events at the meeting in Rome. He pointed out that they were operating under rules that had been written about 300 years ago. All conversation had to take place in Latin. Well, the young priests had studied Latin, but not as a speaking language, but as a reading or citing language. So they didn't understand half of what was going on. They couldn't speak because they couldn't talk in Latin. The new Father General, who was an elderly gentlemen, had to be present during the entire session. So if they started at 8:00 in the morning and went till midnight, he could not leave there between 8:00 and midnight, excepting when everybody else broke for lunch or something like that. They had a lot of other rules that related back to feudal times. The President said, "The new Father General," who was, I think a Spaniard, "is quite liberal in his point of view and he wants to update the rules. I am the Chairman of the committee to present a new set of rules. In order to do that, instead of adjourning the meeting until the next Father General is to be elected, we did not officially adjourn. We adjourned for a year, and we're meeting again next year," or month, or whatever the time was. He said, "I would like you to draft me a set of rules. Here are the problems." He listed about 25 problems. Well, I was leaving for Europe in about 24-48 hours, so I went home and I sat down at my typewriter and took his list of the present day rules, and I

prepared a new set of rules of 75 or 100 rules. Took me about six or eight hours. I didn't even make a copy of them. I just had the thing I had typed. I had a portable typewriter that I don't think it would make copies at that time. The next morning I took it to his office. This was a Saturday and his secretary was there, but nobody else was. I left it with a message saying, "Dear Father Reinert, I am leaving for Europe tomorrow. I'm leaving St. Louis for New York today, and I wanted to get this in to you before I left. I have not cleared it with the other members of the faculty that you had at your meeting yesterday. It's only my personal work." And I left for Europe. When I got back and the new semester started, I got a call that the President wanted to see me.

A. He said, "I showed your rules to the other two. Professor O'Brien (the philosopher) had no comments. Professor Wingle had one recommended change." He told me and I said, "He's absolutely correct. I overlooked that." He said, "I made that change, and last week I was in Chicago and the Father General was there, and I showed him the rules and he approved them."

Q. I think we may have skipped over part of your career. You received an LLM in International Law?

A. Oh, yes. When I was in Washington the first time from '45 to '49, I had started to take courses at George Washington University. I had taken a course in Admiralty, I remember. I don't remember what other courses I had taken. Admiralty, of course, is a part of international law. When I went back, in 1954, I thought that I ought to have some academic background in international law, as well as the practical operational experience. So I registered at George Washington to take the Masters in International Law. They gave me credit for the Admiralty I'd taken about 5 years before, which was helpful.

I did it in three semesters. My wife was not happy because our social life was quite cut down because I'd go to class three nights a week and I'd prepare three nights a week. We had one night a week when we could be socially minded. I got the Masters in International Law in February of 1955 or '56. The man who became the Director of the International Law Program, I took a couple of courses with him, was Tom Mallison. Tom Mallison had been a Navy officer who had been disabled during the war. He had held the Stockton Chair of International Law here at the Naval War College. He suggested that I ought to take an SJD. So I said I'd think about it and we started working on it. I decided that I would take an SJD and I would write my thesis on prisoners of war. Actually, that's when I started the research that resulted in the book that you mentioned was published up here. That's the "Prisoners of War in International Armed Conflict;" the first Blue Book, volume 59. There were a lot of ramifications, administrative things, and I had to get the approval of the Dean of Graduate Studies. By the time that all this was accomplished, I went to lunch one day with Tom Mallison and this Dean, Forrester I think his name was. At lunch the Dean said, "Ok, you're approved. You can pay tuition on Monday and you'll be registered as a graduate student." This was about Wednesday. Friday I got orders for Europe. So I had to call George Washington and say, "I'm sorry, I'm not going to take an SJD. I'm going to be in Europe." That's when I met the director of the Max Planck Institute and I asked him if I could take a doctorate at the Max Planck Institute in Heidelberg and he said yes, they'd be happy to have me. I said, "Can I write my thesis in English?" He said, "No. You have to write it in German." Well, I know how to say auf wiedersehen, and that's about the extent of my German. So that was out.

Q. One of the organizations that you have listed on your biography is the Retired Army Judge Advocates Association. Would you like to tell us a little something about that?

A. Yes. In 1976 I got a telephone call from Wally Solf, who was a Colonel in the JAG Corps and who had been Chief of the International Affairs Division and then had retired and become a civilian working in the International Affairs Division. He said that they had received a call from the Korean Embassy saying that the Korean government would like to invite ten JAGs who had served in Korea during the hostilities, that is, between 1950-53, to come as their guests to Korea. This was a program that their government had. They had a lot of people from Australia and other countries that had furnished troops to Korea. When the invitation was made, Wally had pointed out that these people that would go were mostly retired officers, and that they could not accept anything from a foreign government. That message must have gone over back home, because the next thing they got was a call from the Embassy saying that the Federal Bar Association of Seoul would like to invite the ten officers to come to Korea. I was one of the officers that had been suggested and would I like to go? So I said, "I'd be delighted." This was to happen in, I suppose, 1976. It must have been around May that we were to go. I remember that because we were going to leave for Los Angeles the day after exams, 24 hours after my exam was being given, so I went to the Dean and said, "I don't like to do this. I don't like to give true-false examinations, but I'm going to have to give a true-false, multiple choice examination so that I can mark it and get out of here." I didn't have to get his permission. I was just telling him because I personally don't think that most law courses lend themselves to true-false examinations. International law I certainly didn't think did. So we went to Los Angeles, where we met the other nine who included Ret. BG



Cleo Straight, Ret. MG Larry Fuller, and Ret. COL John J. Douglass who had been the Commandant of the JAG School. We left the next day. We stopped in Hawaii and then flew directly to Seoul. In the course of the flight, we were discussing the fact that this was the first time any of us had seen each other since we had retired, and that we ought to do something about that. We decided there ought to be an organization for retired JAGs so that they could get together with their contemporaries and with the men that had followed them, learn what was going on, and meet old friends. When we got back, Ret. BG Bruce Babbitt, who lived in Florida, and John J. Douglass who was the Director of the District Attorney's School in Houston, Texas, took over the administrative work creating this organization. They called the first meeting at Charlottesville in 1977 or 1978. Charlottesville was on the east coast, and the decision was made that it would be in the spring of each year; one year it would be on the east coast, the next year it would be in the middle of the country, and the next year it would be on the west coast. We have had those meetings now every year since then. We usually will have an attendance of approximately 150 people. It's a wonderful opportunity to meet people you haven't seen in years. Wherever the meeting occurs, you will have an influx of new people from that area who have not been to a meeting before. For example, we had a meeting in Savannah. The people from Georgia, northern Florida, and South Carolina appeared at that. Now, they may not appear at the one in San Diego next year. In San Diego, the people in Southern California will be there. There are a number of us that go to all of the meetings from all over the country. As a matter of fact, RAJA gives a number of these little loving cups that I guess they get at the JAG School exchange. One is for the "travelingest" RAJA. That one I got when I went, I think, to Monterey from Newport. That was the furthest anybody went. You can only get it once. Otherwise, well, we have one retired JAG in Hawaii who comes to all the

meetings. Of course, he would get it every year. But, you can only get one once. We have the "travelingest," the oldest, the "retiredest." I complained last year because it was given to a West Pointer and I looked up in the book and found out when he graduated from West Point and I added thirty years to that, and it would have been after I retired. So I wrote Bruce Babbitt and complained, and he wrote back and said, "He retired ahead of time." The Air Force has now adopted a similar idea. They have a retired Air Force organization that, I think, the first time they met in San Antonio, they had several hundred participants. That was the first meeting, which is always the biggest. The Navy doesn't have it, but there are a lot of retired Navy people that have talked about it and I think you'll see a Navy retired JAG organization in the near future.

Q. We've about come to the end of this interview. You wanted to mention an incident that happened when you were at St. Louis University?

A. When I was teaching at St. Louis, I got a telephone call from a man who introduced himself as John Carey. He said that he was the chairman of the Hammerskold Forum. Hammerskold is the former Secretary General of the United Nations who was killed in the Congo. The Bar Association of the City of New York annually has a Hammerskold Forum, at which they have a speaker who speaks on some matter that would be of interest to someone internationally minded like Dag Hammerskold. I think they have it in February of every year. He had wanted to have a discussion on war, on law of war, and they had a congressman who was very anti-gas and was trying to get the United States to abolish all its wartime gas supplies. They had several other people, but they needed someone to write the working paper. He had talked to the Pentagon, and the Pentagon had suggested that he call me. So, I talked to him for awhile to find out what it

was he wanted exactly, and whether I would be able to do it in the time that was available, and we agreed that I would do it. So I wrote what became the working paper for the Hammerskold Forum in 1971, which I called, "Some Major Inadequacies in the Existing Law Relating to the Protection of Individuals During Armed Conflict." I sent it to him. Then they asked me to come to the meeting to deliver a summary of it and to take part in the debate which was to follow after the talks. So we flew to New York and they had a dinner. In the building of the Bar Association of the City of New York, they have a beautiful auditorium. They had about four speakers. John Carey was the moderator. Then we had a debate after it was over. They had my working paper mimeographed on sale there. The Hammerskold Forums are published by Oceana Publications for the Bar Association, and subsequently, it was published in this book which John Carey called, "When Battle Rages, How Can Law Protect?"

- Q. We talked earlier about the Nuremberg trials. Tell us something about how the clemency board worked in the Ilse Koch war crimes case.
- A. Originally, of course, the four powers had jurisdiction over everyone who had been convicted by the International Military Tribunal at Nuremberg. Every country had individual responsibility for anyone that it's courts had convicted. All the western prisoners, I think, were in Landsberg, in Germany; that is, prisoners convicted by western courts. The Russians took care of their own. I don't know where they had them. The International Military Tribunal defendants that were convicted, were in Landsberg, also. I think we used another prison in the American zone, also. Landsberg was a peculiar place because every month, the responsibility changed from one country to another. So one month, you would have Russian food, Russian

troops, Russian guards; the next month you'd have British; the next month, French; the next month American; then you'd be back to the Russians. So that was a little different. We had prisoners in another prison in Germany. The high commissioner for Germany was given clemency jurisdiction. The first one was McCloy, and he was there for about four or five years, I think.

Q. Was the high commissioner a State Department official?

A. Well, he was in the State Department, but he was the top man in Germany. On a military matter, of course, the commander-in-chief would be responsible. But if it was a military-political question, for example, the high commissioner would make the ultimate decision. He was sort of like an ambassador, but above an ambassador. He had more power than an ambassador. He was in the occupied area. This is the American occupied area of Germany. He had clemency power. I don't know when they abolished the high commissioner's office. In 1955 we started having an ambassador, I guess, and they abolished the high commissioner's office. In 1955 we recognized Germany, when the occupation technically ended. So, we had to have some way of having clemency for these people who were in jail. The State Department created a clemency board, which consisted of a minister--I think he was promoted to ambassador when he got the job--in the Embassy at Bonn, and several German members. The Koch matter occurred when that board gave clemency to Ilse Koch, and released her from prison. It created quite a furor in the United States because of the fact that her crimes were such vile ones. She had someone skin dead bodies to make lamp shades out of the skin. There was just something unwholesome about it. They felt that a woman like that, she had a reputation at the concentration camp she was at, all in all, she was not the sort of a person it was felt should be released. Well, it became a political matter. Just at that time, Cleo Straight, who was a

Colonel, came back from Germany where he had been Deputy Staff Judge Advocate for War Crimes. He became Chief of the Litigation Division, but the Koch case broke, and because he had been involved in it from the very beginning, Congress was constantly having committees call him up to testify. I think for the first couple of months that he was Chief of Litigation Division, he didn't even open a drawer of his desk. He was up on the Hill testifying most of the time.

Q. Was she the wife of the Commandant of a concentration camp?

A. She was a wife, a girlfriend, I don't know what it was. I don't remember the details of her life. She was at this concentration camp and she wielded power there.

Q. Do you really think that the British went into the Malvinas because if they didn't it would cause them trouble in their position on Gibraltar?

A. An authority of Britain said when he was asked about that, "How long do you think the Spaniards would have stayed out of Gibraltar if we hadn't fought in the Falklands?" Now, I don't know if the Spaniards would have used force. I think the pressure would have been such that something would have happened and it might have erupted. The trouble with both of those places is that the tail is wagging the dog. In Gibraltar, for example--I can't remember the name of the political organization--but, it actually got power for one term in Gibraltar because it was successful in having the British Parliament enact a bill, the Gibraltar Constitution bill, which provides that the Parliament will not enact any bill concerning sovereignty over Gibraltar without the consent of the Gibraltarians. Well that means that British foreign policy is subject to the vote of the Gibraltarians. Now, they've done

the same thing in the Malvinas. You've got 2,000 sheep herders down there who can decide whether or not Great Britain will turn the Malvinas, or the Falklands, over to the Argentina. I don't think that a country like Great Britain should permit its foreign policy to be that restricted. They've taken away their options by doing that.

Q. You mentioned a Tom Mallison?

A. Yes. Tom is probably ten or fifteen years younger than I am. He delights when we're at a meeting, calling me over with my white hair and saying, "This is one of my students."

Q. Col Levie, 26-27 years ago you wrote an article following your retirement, in what was then called the Cornell Law Forum. It was part of their series entitled, "Practice as Seen by the Practitioners," and it was titled, "Army Lawyers Life Provides Varied Work." In that article, you correctly predicted, or you hoped that Congress would soon grant the authority to the Judge Advocate General's School to grant the Masters of Law degree. This is now 1988, and President Reagan has just signed that particular legislation into law. Do you have any comments, 27 years later?

A. Congress has always been reluctant to allow service schools to give degrees outside of the Academies, which give Bachelor of Science degrees. I guess they all give Bachelor of Science, don't they? Outside of that, the only service school that I know that can give a degree is the Navy's post graduate school in Monterey, California, which is a very high level technical school. It doesn't get the publicity that MIT and those schools do, but from what I've heard, not being a scientist, it's the equal of them. As I say, I can understand Congress' reluctance. However, back in the sixties, the American Bar Association had

a committee that inspected law schools, and they inspected the JAG School. Their report said, "This is the best graduate law program in the United States." I thought, well if the American Bar Association with their members being academics and not JAGs or anything, if they say that, then the school deserves to be able to give a Masters degree. I thought that they should, and I think a lot of Congressmen thought that they should. It reached a point in the seventies where Congress conducted hearings on the bill to give the JAG School the right to give Masters degrees. Much to my dismay, the president of my university where I had gone as an undergraduate into law school, appeared before the committee and said that this would downgrade the Masters degree. The presidents of a couple of other schools did the same thing. As a result, Congress dropped it. At the RAJA meeting, COL Jack Rice, the Commandant who appeared to give us a talk on what was happening in military justice and what was happening at the JAG School, told us that it had progressed to the point where he had hopes that it would be enacted. Most of us laughed when he said that. Our experience had been such that we didn't think that it would ever happen. I am very, very happy to hear that it has finally occurred, even if it is 27 years late.

Q. You concluded your article by saying, "If the reader has detected a note of enthusiasm in what appears above, he couldn't be righter. The decision I made in 1946 to make a career in the Army JAG Corps is one which my wife and I have never regretted. In fact, now that I am on the last lap, headed for retirement in order to make room for new blood, our only regret is that it is ending instead of beginning." Do you have any final feelings about your career in the JAG Corps?

A. I still feel the same way. I didn't spend a whole career in the JAG Corps because I was only in it from 1946-1963, seventeen

years, not the full thirty that most JAGs are able to spend. But I never had an assignment that I didn't like. I never had a boss that I didn't get along with. One of my reasons for staying in was the feeling that if I did get a boss that I didn't like, they're three year tours, and if he'd been there a year and a half, I would be there a year and a half with him. Then he'd be gone. Or, I'd been there for a year and a half when he arrived, and in a year and a half, I would go. You can always live with someone for a year or two. Actually, I never had to worry about that because I never had a boss I didn't like. That was one of my feelings about going in. In private practice, I had had one boss who was a nice guy, but he tended to blow his stack about every fifteen minutes. That becomes a little wearing on the nerves. As I say, I enjoyed my work. I was fortunate perhaps. Maybe other people aren't as fortunate as I am in every respect. But, if I were 25 years old and just out of law school, I would apply for JAG.

Q. Thanks, COL Levie, we appreciate it.



