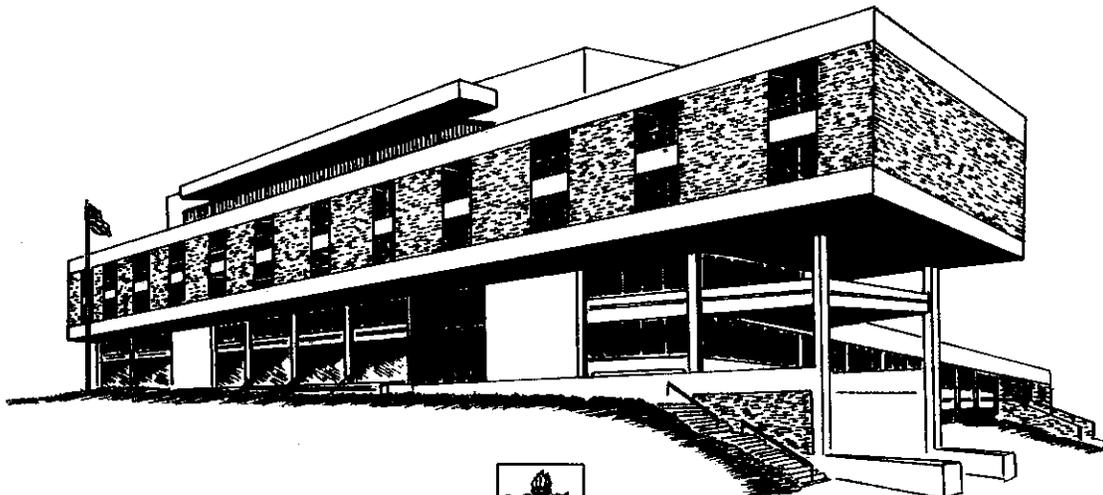


An Oral History of

HUGH J. CLAUSEN MAJOR GENERAL (RETIRED)

The Judge Advocate General, United States Army
1981 - 1985



Interviewed by
Major Tom Mason
Major Gene Stoker
1985

The Judge Advocate General's School
United States Army
Charlottesville, Virginia

Today is February 1st, 1985. The subject of this tape is the interview of Major General Hugh Clausen for the TJAGSA Oral History Program.

The researchers are Major Gene Stoker and Major Tom Mason.

A: I think we'll just take it in chronological order.

I was born on the 25th of December 1926, and there's really not a whole lot to say there, it seems to me.

Q: Sir, tell us about your growing up in Alabama.

A: Yes I have so many different stories about that time.

A: But first, since I will be referring to the future, I would like to summarize in general my career prior to becoming TJAG. Actually, the first thing we ought to do is mention Fort Bragg, North Carolina because I was at Fort Bragg in March '51 until September of '51. They did things just completely different those days. Oh, you'll see a little bit of that now. I imagine you'll find somebody at the basic class that lived in Oklahoma and they put them at Fort Sill for a couple of months until the next class. Well, we just did that more extensively back in those days. So, I stayed at Fort Bragg with Headquarters V Corps, at Post, until September before they had the Basic Class. And then after the Basic Class, I went to USAEURV and then Headquarters V Corps again, which was then commanded

in Frankfurt, and then to Seventh Army. And then from Seventh Army to New Orleans. And then, of course, I came here to the Graduate Course. They used to call it the Career Course. Then I stayed on at the School. And then after leaving the school I went to language school in the City of Monterrey--that was at Fort Ord--and studied Korean and then went on to be a Judge Advocate at the Disciplinary Barracks, and attended CGSC and then became an instructor, and then went to Vietnam. Then I went to Chief of Military Justice Division, Exec, III Corps, and then the BG over there and then Assistant JAG for Military Law.

Q: Now I can talk about the early years. We lived right outside of Mobile, Alabama, as you all know, with very few people around. I was an only child and there weren't that many children out in the county. I didn't have any brothers and sisters or any children to play with. There were some--in those days we called them "colored"--children who lived down the road and you could play with them. I still have the .22 rifle that I had in those days and the only instruction I was given was, "Don't shoot at the house." No, I take that back. "Don't shoot at the house and don't shoot at any of the livestock." So it was pretty remote. Things have

changed since then. I was down at Mobile about a year ago. I stayed at a new hotel, a Hilton, that was to the west of downtown Mobile, which is now even west of where I lived. It's about twenty stories, and as luck would have it I was staying on the eastern side and was standing up at the window kind of looking around, to see if I could recognize anything and if I could figure out where I used to live. Now it's now wall-to-wall houses, stores and things like that.

Q: What did your parents do, sir?

A: My father worked for the railroad for many, many, many years. My mother was a housewife and I went to the public school. I'm not sure I remember the names of all the schools I attended. Before we actually moved out to the country, we had moved a couple of other times. The first school I went to was the old school. I finished the 6th grade, and in those days there was only one school for the 7th grade, which was Barton Academy. It was in downtown Mobile. The building still stands. It was named after Clara Barton. During the Civil War it was a hospital for Confederate soldiers. And so kids from all the schools from all over the county went to Barton Academy for 7th grade. I had to walk about three miles, to a place called the loop and I caught

a street car and rode to downtown Mobile every day, rain or shine. At the end of that year I went to the public high school for about a half a year. I think it was called Murphy High School, which was not too far from where we lived actually. I've forgotten now. It was a few miles, but it wasn't all that far. Then I went to what was then called McGill Institute--Barton Academy was on Government Street, which was one of the main streets in Mobile--and still is--and McGill Institute was just a few blocks down the street from Barton Academy, almost to the Mobile River. That's where I went to high school.

Q: What was the reason for your change from Murphy High School to McGill Institute.

A: I think my parents were not all that pleased with the public high school. At the time McGill Institute was run by the Brothers of the Sacred Heart and I think they thought I might benefit from a little more discipline. It was an all Boys School. So, I went to McGill. Of course, I had to do the same thing I did when I went to Barton Academy--three miles walking and riding a street car--which by this time was a bus. The Brothers ran their school with an iron hand, I might add. If teachers did today the things they did, they

would have long since been sued so many times that they'd be bankrupt. They had no hesitancy in swatting you one. I remember one old Brother had lost his hand at some time and he had a false hand with a black glove and it was in the shape of a hand. And his method of instilling a little punishment in you was to play you a game of handball, and he'd just flat run your tongue hanging out, and that was his way. He was an extremely good handball player.

They used to have what they called "dumbo class." If you didn't make a C+, I think it was, you had to go to "dumbo class." I have to explain a little bit. I think in the public school system an A was 95 to 100. At McGill, it was 98 to 100 because McGill had really scaled it up. So a C+ was a pretty good grade, even C was a good grade; but if you didn't have at least that under their system, "dumbo class." You just stayed after school, that's all there was to it. They also had punishment classes. One of the other ways of instilling a little discipline was to make you stay in the same period of time that they were having "dumbo classes." They would give you a literature book and they'd just pick a page or they'd pick a poem, sometimes they even take a mathematics book and pick

a page, and you had to memorize it. Then you had to recite it for the Brothers. As soon as you could recite it, you could leave. But you'd better not miss a comma, a period, anything, because if you did you'd sit down and they'd take everybody else first. When I left McGill I probably had read more poetry than anybody in the whole world because I spent so much time in those classes memorizing things. McGill is no longer in the same place. First it moved way out to no more than about maybe two miles to where I was living. Then they moved from there back downtown across the street from Bishop Tulin High School. And it's now called McGill-Tulin High School, I think; the reason being that they can no longer get enough Nuns and Brothers to run the two schools, so they put them together and they have a civilian principal who is the principal of both schools. And the current assistant principal of McGill was, I think, two years behind me at McGill. I asked him if they still have the dumbos and punishment classes. "Oh, no, we don't have those any more." I said, "Well, why not?" And he said, "Well, first of all, we probably couldn't get away with it anyway, but secondly, we now have so many civilian teachers that when one-thirty rolls around or two o'clock, they have so many car pool

arrangements there aren't any people around to run the classes, so we can't have them. So the place is dead. It's empty."

Q: Did that discipline prepare you for your career in the military, sir?

A: I think it probably did. They were pretty strict. They had a lot of rules. You had to wear a shirt and a tie, and so we would take a tie and we'd turn the tie, so, this would be on the inside and the other part on the outside; or we'd tie it so that one part was about this long and the other was hanging down to your knees. Or we'd wear a tee shirt with a tie around your neck and tried every way in the world to outsmart them. And they would always acknowledge you're within the rule, but then they would say, "But you really don't present a very good appearance," and "Why don't you write on the blackboard 'Clothes don't make a man. Clothes make a well dressed man.'" So there was really no way to outsmart these Brothers.

Q: Sir, did you know you wanted to be a lawyer when you were in high school?

A: No. No, I had no idea about that at all. In fact, I wanted to be an engineer and that's where I was aiming. My class was scheduled to graduate in 1944, and so I was probably, if not the youngest in my

class, I was one of the youngest and some of my classmates were hitting the age where they could be drafted or they would be drafted. There's a small Jesuit College in Mobile, Spring Hill College, and so the Brothers hit upon the scheme with the Jesuits. My whole class had 40, and out of that number there were four of us who attended classes at McGill in the morning and classes at Spring Hill College in the afternoon; and then there were 13 others who attended classes at McGill both in the morning and the afternoon and as a consequence all 17 of us graduated in January of 1944; and then the four of us had one semester of college as well. And that was their scheme to have their boys finish high school before they got drafted and, in the case of four of us, we'd have a little bit of college. They thought that would be good for us when we got drafted.

Q: Was there any reason for you to be in that group of four or five and to participate in the program?

A: Well, I had pretty good grades and that was part of it, and I said, "Yes, I'd like to try to do that." About that time some guys came around. They used to have what was called the "Navy V-12 Program." I don't know if you ever heard of that. It was basically like ROTC. The Army had one of those too.

I think they called it the "ASTP," the Army Student Training Program. These guys came around from the Navy and tested all high school seniors. Of course, this was earlier in the previous year. There were not a whole lot of people that passed the test. All I can remember is that it was a small number, about 25 in the county and 10 of them came from McGill. But, they wouldn't take me because I was only 16. So then when I graduated I said I'll go back out to Spring Hill. So I did, and then when I became 18 and I knew they were going to get me anyway, I went down and volunteered for the draft and that's how I ended up in the Navy; the reason for that being that my best friend had been drafted and put in the Navy. They just drafted you and, of course, the Army got most of the draftees, but some of them had to go elsewhere, the Marine Corps, the Navy. And so I said, I'll go in the Navy, so I went and joined the Navy and went to the Naval Air Technical Training Command in Memphis, Tennessee. It's still there I think. I went to boot camp there and during the time that I was in boot camp we were once again all tested and so I once again passed the V-12 test.

When boot camp ended all the people I was in boot camp with left, and I had to stay around because they were going to send me off to school.

I stayed there for some time, I think until February of 1945. And so, from whatever time that ended until August or September, I stayed there at the NATTC. We had an interesting time. The Navy did things in funny ways--still does, I think. Where the headquarters was located was called Mainside, I think, and having passed the test I had to go sign some papers and I had to go to Mainside to do this. So I asked where it was. I was told, "You go in this direction and when you see the building with the great big flag pole in front of it, that's it." I went over there in those funny looking legging things that they made you wear and I found the building that had the flag pole and I went to the front door and tried to open the front door, and there was a Marine guard who would not allow me to enter. They were having Captain's Mast, a gathering. The old Admiral was there and a bunch of people, so he told me I had to go to the end of the building. So I went down to the end of the building and came in and I asked for the room number and was told, "Well, it's all the way down to the other end of the building." I went squeak, squeak, squeak, and went right through the damn place where they were having the Captain's Mast and got eyeballed more than I thought at the time by the old

Admiral--got my business done, though.

So when boot camp was ended and while I was waiting, my assignment was to be an assistant to the OOD, the Officer of the Day. I don't know exactly what this fellow did. He was a Naval Lieutenant, I think, maybe a Lieutenant Commander. The only thing I do remember is that whenever the Admiral's car drove up, I was to leap up from my desk and hold open the door and the Naval officer would put on his hat and he would salute as the Admiral came through the door. Those were my instructions. The first time the old Admiral walked in, he stopped and he looked at me and said, "You're the young man who disturbed my Mast." "Yes, sir." He turned and walked away, and left. I thought it would never happen, but it was something interesting that the old Admiral remembered that.

That was my sole occupation until I was shipped off to the University of Louisville to go to the Speed Engineering School. I stayed there then from the Fall of '45 until the Summer of 1946. During that period of time, as I recall, instead of getting two semesters, I got three semesters. There weren't long Christmas holidays and spring breaks and all that jazz; they were trying to get everybody

through the school so they could make them Naval officers and ship them off someplace. They had a point system and I had enough points to go home, but by the time 1946 rolled around, I was shipped to New Orleans, Louisiana, to a Naval Station down there, and I was discharged.

To show you what a brilliant guy I am, I was always thinking ahead. I was asked if I wished to join the Reserves and I said "Not on your life." And the old Chief Petty Officer said, "Okay, go get in that line over there." And I remember saying, "Why can't I get in this line over here? It's much shorter." He said, "This is the line for the people to join the Naval Reserves." And I looked over here and there's a few people and over here's it's terribly long I asked, "You mean I can get home quicker if I join the Reserves?" And he said, "We'll have you out of here in minutes." "Well, I'd like to join the Reserves." So I joined the Naval Reserve. Now the significance of that is that I was in the Navy Reserves until I joined the Army Reserves. So that was '46 to '50, four years. Well, under the law as it existed in those days, you

didn't have to attend meetings or anything else in order to have a creditable year Reserve service. So I had two fogies--four years. A fogie is two years, right?

Q: Yes, sir.

A: So I got two fogies doing nothing, which, of course, when I came back on active duty as a Lieutenant my pay was greater than most lieutenants just because I was doing nothing. Of course, I had no foresight at all; I was just anxious to get home.

Q: Sir, what were you trained to do in the Navy? If the war had continued, what would you have been? Would you have been an officer after the engineering school?

A: Yes, I was supposed to have become an officer at some time, probably an engineering officer, since I was in engineering school.

Q: What was your MOS after you finished the boot camp?

A: I was going to be trained as a tail gunner on an airplane. In fact, I did get some training in that; you've probably seen them in old war movies--got the pilot up front and the gunner on the back shooting a machine gun. I can't remember what kind of plane that was, but anyway that's what it was.

Q: When you were a youngster, sir, did you play

sports? Were you a golfer?

A: No.

Q: --is that something that came later?

A: At McGill we were so small, the rule was everybody played everything, and even with the smallest degree of talent you played football, basketball, baseball, everything. So by decree of the Brothers of the Sacred Heart, I was in their sports program.

Q: Sir, this is kind of a broad question, but one of the things that we were curious about was if you looked at your early years and put them together, what kind of core values did you take away from those years; from your upbringing with your family and your school years and anything you can reflect on in that area?

A: There was a great deal of emphasis given in those days to honesty. If my father ever caught me lying to him, I was in terrible trouble. And, of course, you couldn't lie to the good Brothers or they'd whack you apart. And that came over very clearly to me because the standards in the public school system were much more relaxed than they were in the Catholic school system. When we had this reunion I told the sole Brother that's still alive that was a Brother when I was there, that they instilled me with some responsibility; they just forced you to

a point of trying to do well because of the competitiveness that they instilled in you. And they always wanted you to do your best and you said, "Well, gee, Brother, I'm just really not a very good basketball player," and their answer almost invariably was "Just do the best you can. If you try hard you probably can do better than you think you can."

And that's what they tried to do in classes, as well. They urged you to learn as much as you could and get to Spring Hill earlier. It was just one of their ways of trying to get you prepared for it and get a leg up on other folks and get ahead. And so I think probably honesty and integrity were stressed.

They certainly stressed moral values. And, of course, there always came that time to go to church on all the holy days and all that kind of good stuff and then, Supreme Court notwithstanding, we did open up every day with prayer and that sort of thing. They tried to instill, too, respect for your elders and just those basic values I think that we probably still say we value today and try to communicate. They were very, very stern with respect to discipline. They had certain rules about where you could go and where you couldn't go

and where you could smoke or you couldn't smoke and they just made you obey these rules. Some of the rules were really unnecessary. But I think it was their means of trying to tell you that we're all subject to rules and so we're going to teach you how to obey these rules. You know, this thing about ties to the church and the discipline that they instilled with the kinds of punishment that they imposed, I think those are the things that I remember most.

McGill was a two-track school. They had what they called the general course and a commercial course and based upon your records, grades and attitudes, the good Brothers would put you in one track or another. If you fell in the commercial track, what they were saying to you is when you get out of high school you're going to go to work, and so we're going to teach you accounting and bookkeeping and typing and all that kind of good stuff. In the general course you were being groomed for college, but they made you take typing anyway. I said, "Wait a minute, Brother. I'm not in the commercial course; I'm in the general course." And I remember he just looked at me very blankly and said, "Well, if you're going to college, you need to know how to type, so you'll

get better grades."

One day I can recall I picked up a Spanish examination and had 99 and I looked it all over and I couldn't see any red marks. I went up and I said, "Say, Brother, I see you've given me a 99 here and I can't see that I missed anything." He didn't bother to look at the paper. He just looked up from his desk and he said, "Only God is perfect, sir, and you get 99." And so, despite the fact, as I told you earlier, that 98 to 100 was an A, nobody ever got 100. They knew that you really got 100, but they'd never give you 100, it was always 99.

Q: Did you have any odd jobs on the side while you were growing up in Mobile, sir?

A: Yes, I worked in a grocery store. Oh, there was a paper route I had out in the country and that was a lot of peddling. Then one summer I got a job in a grocery store to try to earn some cash money. I remember that very well because I was paid 25¢ an hour. And, you know, there were people that were married and raising families that were making 50¢ and 75¢ an hour. Salaries were very, very low: In fact, I think when my father built his house, the whole house only cost about \$1500. But then,

everything has been inflated so much. I remember when my father bought a 1939 Dodge I believe he paid \$895 or \$995 for it. In fact, when I got out of law school I bought a 1951 Chevrolet, the same car I drove to Charlottesville, and I think it was, maybe, \$1500. The inflation had grown significantly, even by '51.

The owner of the grocery store had a son who was an amateur boxer and they had a black guy that worked in the store there, and he was a boxer or had been a boxer. And so on Saturday they used to--right in the back of the store--they used to put on these great big old gloves and the guy who ran the grocery store would sponsor these fights. You know, "Come on. I'll take you on."

Q: Have you ever boxed any?

A: Not myself.

Well, I'll tell you what after a little bit, you'd just think you wouldn't be able to raise your arms again because they were very heavily bandaged. It was kind of fun back then. We had some wild times.

Q: Sir, you've taken us through your time in the Navy Reserve and then we find you at law school. Would you tie those pieces together for us?

A: Yes. As a matter of fact, it seemed like most of the Naval officers who were successful were

lawyers. You know, in war time, just because you're a lawyer you weren't a JAG. In fact, there were very few JAG's in the Navy in those days. Their system was different and the same was true for the Army. As a matter of fact, many, many lawyers came in and were in the Infantry and whatnot, drafted just like everybody else. And if you go out to the Reserves today you'll find there are a lot of lawyers whose Reserve commission is in the Infantry. They just want to do something different on the weekends instead of practicing law. They want to go out and do something else.

Anyway, my friend Richard and I, we'd reached that conclusion and so when we came home in 1946 we went back out to Spring Hill College together. We talked about it and decided it would be nice to go to law school and so we went to law school. Something happened and I got ahead of Richard by a year. He dropped out--I can't remember why. We both went to Alabama and we both went to law school. And it was basically because we'd seen so many lawyers in the Navy uniform that seemed to be successful people, and that's about all I can really think of.

Of course, I've got a story to tell you about that too. I had no intention at all of

ever being in the Army. But around World War I, if my memory serves me right, there was a guy named James Morraset, who graduated from the University of Alabama and Law School, around 1915, I believe, and practiced law in Tuscaloosa, and taught some out at the University until '16 or '17--about 1916--17, somewhere in there. For reasons unknown to me, he became a Captain in the JAGD. It was called The Judge Advocate General's Department in those days. I think when World War I started there were 17 JAG officers in the Army and General Morraset was one of them. With a short hiatus as a civilian, he was in the JAGD and retired in 1946 as a BG and returned to the University of Alabama and taught constitutional law.

About the end of my second year old General Morraset started working on me for a commission in the JAG and I can remember saying, "General, I just don't want one of those." He said, "Well, look, if there's another war wouldn't you really like to be an officer?" I said, "Ah, hell, General, we're not going to have another war." But General Morraset did prevail upon me to get a

commission in the Reserves. He said, "Get a commission in the Reserve, I'll get you in a unit. You'll meet a lot of good lawyers,-- you'll need to know a lot of lawyers and it'll be good for you." I finally said okay, and I got myself a commission in the Reserves and my unit got called up. I found myself on the way to Fort Bragg. I was in a Transportation Reserve Unit that must have had 20 or 30 lawyers in it, I think. It was a strange way the Reserves did business back in those days. And, of course, they had a lot more people than they had spaces and somehow I ended up being one of those that got activated and on my way to Fort Bragg, North Carolina. And so that's how I got in the JAG Corps.

Q: What was your job in the Reserves, sir?

A: Nothing really. We went to meetings, once a week, I believe, or maybe it was two days--I've forgotten. But I don't remember doing a darn thing other than going to meetings and I remember some old Colonel used to give me his speeches, he never could remember what he was talking about. In short, we didn't do anything. There was no organization, rhyme nor reason. You'd never find a Transportation unit with this many lawyers in it.

The Reserves just were totally different then than they are now. They just had not had sufficient time to get themselves organized after the big war and so I really didn't do anything except go to meetings, and, of course, I got paid for it. And so that's how I got commissioned. That's my story, my twenty minute after-luncheon speech, as to how I ended up in the JAG Corps.

Q: Did you just branch transfer once you got to Fort Bragg?

A: No, I was in the JAG Corps, First Lieutenant, JAGC, USAR. And, of course, they just sent the people to wherever they wanted to go. I got sent to the Post SJA Office, Fort Bragg. I went to Bragg, came here to the JAG School, went to Europe, stayed in Europe three years, and then went to New Orleans. Somewhere after we came back from Europe I remember I saw General Morraset and he's a crusty old rascal and I said, "Hey, General, did you hear what has happened to me over the last few years?" and he said, "No, I haven't." "Well, I got myself called up and--" so on and so forth. He said, "Do you like what you been doing?" and I said, "Yes, sir." He said, "Well, you did the right thing," and with that, he just walked away.

I have another story about General Morraset.

I went on to Fort Bragg and my wife and children joined me later. My wife stayed in Tuscaloosa with her parents, and my children were in school there. She got to know a couple there whose daughter was also in school the same age as my daughter, and this guy was a stock broker. He was a broker for Merrill Lynch Pierce Fenner & Beam, it was known as in those days, and their office was in First National Bank building. The old General used to go there, and by this time his wife had died and he was completely retired, and he'd always show up with a little brown paper bag and he'd sit down. He'd watch that little board, you know, that you see in stock brokers' offices. He'd make some notes and whatnot, looked around, made notes and while away some time. Sometimes he'd occasionally even buy himself something, but most of the time he just whiled away the time and then he'd get up and leave.

So one day this friend of ours asked General Morraset "What do you have in that paper bag?" and he said "A bottle of bourbon." And my friend said, "Why do you carry it around with you all the time?" He said, "I don't. It's a new one every day." So he was going by what used to be called in Alabama "The Green Front Store," the State liquor store

because they were all painted green. He'd go by the Green Front Store, pick up a bottle, wander over there and, watch the thing, while away some time, go some place and have lunch, go home and by the time he got up the next morning he needed another bottle of bourbon. General Morraset died just a few days before he would have been 88 years old. I often told this friend of mine that I was still mad with him because he never found out the brand of bourbon. If he found that out, we'd all live to be 88 years old. Anyway, General Morraset is the one that has to take all the blame for me being in the JAG Corps.

That gets me all the way up now to Fort Bragg, North Carolina. As a brand spanking new Lieutenant I didn't know beans about the Army I'll tell you that and, of course, you know, I'd never had any training of any kind. In fact, when I first got my Reserve commission I had to ask one of my uncles, who was a retired Transportation Colonel, to help me put on the insignia. I didn't even know how to do that. Nobody had told me, nobody to ask, no books, no kind of school. I didn't know anything. I was still just as ignorant when I got to Fort Bragg. Hell, I didn't know anything about the Army. I didn't know anything about the rules. I

met a guy up there before I got my wife up and he asked me to go to some lake with him one weekend. I said, "Gee, I can't go because I don't have any pass." He said, "What do you mean you don't have a pass? You're an officer." And I said, "In the experience I've had you couldn't go anywhere without a pass." Shows you how much I knew about the Army at that time!

Q: When were you married, sir?

A: I was married in 1949.

Q: In law school?

A: In law school and I met my bride on a blind date. I was a member of the Phi Kappa Sigma Fraternity and she was a member of the Delta Zeta Sorority. And a gal who was also a member of the Delta Zeta Sorority was a young lady from Mobile, whose family and my family had been friends for quite some number of years. And so we used to have, I believe it was called, pledge swaps and that meant if you were a fraternity pledge then you got married up with the sorority pledges and they'd have pledge swaps. In other words, the sorority would have the fraternity pledges over for some kind of entertainment and then at a later date then the fraternity would have the sorority pledges over for a dance or whatever. This gal and my wife had

become friends and so that's how I ended up with her on a blind date. One thing led to another and we got married in '49 while I was still in school.

The only reason I ever joined the fraternity in the first place was because it was very difficult to find a place to live at the University of Alabama in those days, as it was, I'm sure, in many universities. With World War II being over, the population of all of our colleges mushroomed with all the veterans. We had a Veterans Bill in those days, much different from the ones they have today, and with this particular fraternity I determined that if I joined it, not only could I get a room in the building to live in, but, of course, they had a dining room and a cook. That sounded like a great deal to me. I said, "I'll join." So that just shows you how a happenstance rules your life sometimes, that I happened to join that particular one for those reasons. I'm not sure why my wife joined the Delta Zeta. She's from Tuscaloosa where the university is located. She probably had some kind of ties to the Delta Zeta organization. I don't remember.

Q: Did she have any objections to your going to Fort Bragg?

A: Well, we really didn't have much choice about it,

but it was all looked upon as a new adventure because, well, I only remember two or three homes myself, and I think she'd only lived in two and I don't think she'd ever been any farther away from home than Birmingham, that's sixty miles.

I took the train to Fort Bragg. What did they call that train? The Southern. The Southern ran from New York to New Orleans, and indeed still comes right through Charlottesville, Virginia. And so I rode the Southern up to some place--whatever the closest place is, and I've forgotten how I got over there but, anyway, I did. And I stayed there for a very short period of time, no more than just a few weeks and got quarters. Do you know what Wherry Housing is?

Q: No, sir.

A: Wherry was a Senator, I believe and Wherry Housing was an effort by the Army to do a little bit of the sort of thing that everybody is talking about doing at Fort Drum today, have civilians build things for you on the post and then you lease them. The Wherry Housing effort was legislation which authorized the Army to lease land to a building investor, who would build apartment buildings on the Army land with the understanding that they would be leased solely to members of the military

on a system to be run by the military. In other words, you went to the Billeting Office to be able to lease a house and this is the way that we got some quarters built back in those days.

Those buildings, incidentally, still stand at Fort Bragg, but long since have been converted; the Army now owns them. We bought it after many, many years. I think there was some provision in the statute, as a matter of fact, that after a certain number of years the Army could buy it or something like that. Anyway, we did. So I got a Wherry Housing apartment, went back home, bought a car, and we packed our few belongings in that '51 Chevrolet and drove to Fort Bragg to move in our Wherry Housing. And it was pretty nice in those days. By today's standards, maybe not, especially if you had children. Of course, we had no children.

And you've probably seen that kind of housing some place. You walk in the front door and then there's steps to lead you up to the second level and around to the right is the living room; behind that is a small dining room and adjacent to the dining room, which is basically under the stairs, is the kitchen; and upstairs two bedrooms and a bath. I don't remember now what the housing

allowance was in those days, maybe a couple hundred dollars a month or something for a Lieutenant. in those days. The BAQ, was very small but I'll say that BAQ was \$60 and I was renting it for \$50 and I had to pay another couple of bucks for a telephone. So we lived there until it was time to come to the JAG School.

When it was time to come to the JAG School, we came on TDY, which you do today. They must have thought we were smarter than you are back in those days because I think the basic class was only nine weeks. But, in any event, I knew at the time that I would be going to Germany after I finished the basic class, and I was trying to figure out how I was going to work this out. I was at a party and met this fellow, a Captain, and he'd just gotten married. And he was going to Korea. We talked for awhile and I told him I was coming up here to the JAG School, be here from September until December and he said, "Gee, you know, would you consider renting your apartment?" Yes, sure, I had to talk to my wife. So I found out I could do this. Basically, we just put a very few pots and pans, if you will, in the trunk of the car and left everything else and I rented to him the place furnished for about \$100 a month and came to

Charlottesville on TDY.

The instructions in those days said "Do not bring your wife." I didn't see much sense in not bringing my wife, so I brought my wife with me despite the instructions to the contrary. I had it figured out so that we arrived here early in the morning one day, bought a newspaper, started looking for apartments for rent, and by the time the evening rolled around we had rented a furnished apartment, a basement apartment, I might add. I'll tell you more about that. But, anyway, I was doing pretty good back in those days. I was renting my apartment for twice as much as the rent and then came TDY. And then I went back and this guy left and we moved back into the apartment for a few days, and got the packers.

But back to Fort Bragg, that was an interesting time. At Fort Bragg the SJA was named Doane F. Kiechel. He was an old time guy; he was sick most of the time that I was there. And let's see, there was Colonel Kiechel and maybe two or three Captains--I don't believe there was a Lieutenant Colonel or Major there--and a bunch of Lieutenants. And one of the Captains, I was sort of a friend of his, was named Joe Washington. The XVIII Airborne Corps Office today stands in exactly

the same place as it was when I was there, except in those days it was Post SJA Office, and there really was no such thing as the Corps Office. There was a Major who was supposed to be the Corps SJA, but really the Colonel was both. And so, anyway, the old Colonel put me in a little cubby hole that was made a cubby hole because it was a desk in the middle and there were bookcases around it. The bookcases even made the door. He said, "These are Board of Review cases and I want you to just start reading." So I started reading. They were B R E T O--Boards of Review European Theater, B R C B I--Pacific, the whole thing. And so I just started reading Opinions. I sat there all day long; for days I sat there. Pick up and read, sometimes browse and not read the whole thing. And I thought, this is sort of a dumb thing to do, but we still had the '49 Manual. In addition to reading cases, Colonel Kiechel each morning had an hour set aside and he had, from the Federal Register, the brand spanking new 1951 Manual that was going to be effective on the 31st of May, 1951--I got there in March--and someone was detailed to conduct a class every day, to try to get everybody in line to be able to practice under the new Manual. For about two months, two and a half

months, that's what we did every morning. Then when that was over and the new Manual became effective, I was an assistant defense counsel and an assistant trial counsel on a few cases. In fact, I think I even prosecuted maybe one case. And then Colonel Kiechel called me in one day and asked me how many of those opinions had I read. I said, "I have no idea, Colonel. I've just been reading." He said, "I wanted you to get a feel for kinds of offenses that soldiers commit in wartime. You ought to know that." And he said, "I'm sure you've picked up some points of law from the discussions that you've seen in Board of Review Opinions. So I'm going to give you some more experience. I'm going to let you prosecute a few cases and defend a few cases and I want you to start writing reviews and advices." I'd write advices for awhile, draft them up and give them to Captain Washington. Then I'd write reviews and then one day I'd prosecute a case, the next day I was defending a case. No TDS in those days. That's what I did. He would try to teach me something and get me well grounded.

So the plain truth of the matter is that when I came here for the basic course at the JAG School I had already written advices and reviews,

prosecuted and defended a few cases, and had read a hell of a lot of BR Opinions. Most of the people in the class knew none of that, so I had a leg up on that. It made it a lot of fun, a very interesting time.

Serving at Fort Bragg when I was there was a Lieutenant named Michael C. Curci. He was from New York and Mike had a typical New Yorker's accent and after awhile in the office, he decided he wanted to learn how to jump out of airplanes. So he transferred to the 82d and then I lost track of Curci. Not only was he a JAG in the 82d, I think he was a Special Forces Officer for awhile. And then he got out. He'd been a judge in New York and the reason I know that is when I became the Chief Judge, I had only been sitting in the chair over there for a few days and Curci called me up. He said he was coming to Washington and wanted to talk to me about his JAG Reserve commission, how he could get promoted to Colonel. He was a very interesting character.

Another member there at that time was named Dennis York, an old Arkansas boy, and his wife Rosemary York. They took us in and were very kind to us. Dennis was an old timer--he'd been in the JAG Corps for maybe three or four months. Dennis

was teaching me the ropes and was very kind. I always had a soft spot in my heart for Dennis and his wife, Rosemary. As far as I know, they are still alive and live in Arkansas.

I don't know what happened to all the rest of these people at Fort Bragg. Colonel Kiechel retired and died not very long after he retired, as I recall. I'm forgetting about Herman the German. His name was Gustaf Kliekamp, nicknamed Gus, sometimes referred to as Herman the German, because his name was Herman Gustaf Kliekamp, that's what it was--Herman Gustaf Kliekamp. And Herman the German was born just outside of Frankfurt and of course spoke German well. He came to this country as a small boy, became a US citizen and then was in the Army in World War II. I think they used old Gus as a MI guy, probably for dealing with the Germans. In any event, somehow he got in the JAG. He was a lawyer, you know, he'd been to law school before coming in the Army. Have you been to Germany?

Q: Yes, sir.

A: Well, you know, Germans that speak English, you can tell them a mile away. They have a German accent. And so Herman the German had such an accent. It was rather mild, that is until it was announced that Headquarters V Corps and all the people in it

were going to go to Europe. And Gus's German accent became very thick, very thick. And so Herman the German went to Germany with V Corps to the I.G. Farben Building, which is now called the Abrams Building.

In any event, I came here to the JAG School in September and the Commandant of the JAG School was Charles C. Decker. General Decker was the first Commandant here at the JAG School in Charlottesville and I was a member of the first class ever held here at Charlottesville, which was the 7th Basic Course; the other six having been held, we all believe, of varying lengths of time, but somewhere between June of '50 and summer of '51. I think some of the classes were held at Fort Myer in an area of the post which has long since been torn down. You know, some of the classes that were taught were probably only maybe two weeks long or something like that. So the first real basic course as we know it today was here in Charlottesville; not here in this building, of course, but over on what is called the Main Campus. It was used as dormitory space, had a little cafeteria type thing in it, and, of course, classes were held in what we know as Ball's Hall. If you have ever been over to the old Law School Building

and seen all the nude paintings in the foyer; that's why we called it Ball's Hall. And then that building that is behind the Law School Building was completed in '52 or '3, '52, I think. Anyway, General Decker was the first Commandant here and this school in those days was absolutely nothing in the world but an old Army Service School, just the same kind of service school just like they try to teach you to cook bread down at Fort Lee, Virginia, something of that sort.

Personnel were chosen in the old Army way; General Decker had his cronies come down here with him, some of which had been at the School up at Fort Myer, some of whom were totally unfit to instruct us in this school. There was even one guy who had had an operation and lost part of his windpipe in some way and he could only speak by rasping and was a very, very poor instructor. In fact, a number were pretty poor instructors, I'll have to say. But it was a start and General Decker always believed himself to be the father of the JAG School. I guess we have his painting hanging back on the steps down there, don't we?

Q: I believe so, sir.

A: I think they are putting some sort of a covering film over it to protect it from the sun. They have

a technique for doing that today. I don't know if you saw it before, but the painting is a huge painting that Mrs. Decker had and, of course, you know, as I say, he always thought of himself as being the father of the JAG School. Whether that's really true or not, I guess is unimportant. Today many people believe that because it's been said so many times, but perhaps Dean Richie of the Law School had much to do with that himself. There's some evidence that Dean Richie invited Colonel Decker down here to consider having the school at the University of Virginia, rather than General Decker coming down to see whether this would be a suitable place. There's sort of a historical dispute there and I'm not sure that we'll ever resolve that, but the main thing is that the school was started.

As I said, it was just an ordinary old service school. We spent an awful lot of time writing out DF's by hand and writing advices and reviews. If you just happened to get something in the wrong place, you know, forget to dot an "i" or something like that, they got very agitated. The focus was really on form and not on substance. So that shows you now that since that modest beginning in 1951, during these past 34 years, this school has become

a real law school because it was once just an ordinary old service school. So you've got to give old General Decker some credit anyway. He got down here and got it started and had some pretty interesting times.

Regarding my basic class, we had, as our British friends might say, a "mixed bag." There were some older people in my class, some retreads from World War II, that were sent to the basic. I think there was even one Lieutenant Colonel in the class, put in a basic class. How effective he might have been some place else after that, I'm not really sure. I have no idea who he was or what happened to him.

I mentioned earlier how I remember bringing my wife to Charlottesville and finding a place to live. But we'd been here only a very short period of time and it was announced in class one day that Colonel and Mrs. Decker were going to have a reception at their home for us--the class members. And so we got into some discussion about calling cards and how many do you have and dropping them unobtrusively into the silver bowl and many people said, "We have no calling cards, we just came in." I'd been at Fort Bragg, so I'd had adequate time to do this and there was a little book that I'd bought

in the PX--"The Officer's Guide." Back in those days it was about 1/2" thick, I think. Now days it's pretty big. And it had a passage that said you need calling cards so I went out and bought some calling cards. So we had the calling cards. The solution that was arrived upon was, if you don't have any, make some, print it on a piece of paper. We went over there and Colonel and Mrs. Decker had punch and cookies, whatever it was, and we were getting ready to go and so I had my card and my wife's out, looked for the little bowl, and I looked and I started laughing. And Colonel Decker saw me laughing and asked me what I was laughing at, what was so funny I said, "Well, oh, nothing, Colonel." And then he looked at the bowl and he had, not a laugh, but a look of disgust on his face because there were already some cards in the bowl and somebody had taken just an ordinary old tablet, such as you have over there with blue lines, and cut a piece the size of a calling card and printed their name on it with a red pencil, and that's what I was laughing at.

In later years General Decker said that he always remembered me because of that incident. I don't know if he was fooling or not, but he said he did. That's about all I can remember about this

whole thing up here. At that time Barracks Road Shopping Center did not exist. There was absolutely nothing there. The only thing at Barracks Road Shopping Center area was the crossroads, Barracks Road and 29 there was a little beer joint out there named Carroll's Tea Room, that had a sign that said "No room, no Carrolls, no tea." And that was the only thing anywhere out there. It was all woods; the whole place. You can see how its grown. If a fellow had really been smart back in those days and had had some money, one could have made a lot of money by buying up all that land.

There was another gentleman. I don't know if he's still living or not, but he and his wife had us over to their home one evening. I don't remember whether it was dinner or just drinks, but they had us over and the reason they had us over is that they knew that I had been to Fort Bragg and he was going to go to Fort Bragg, and they had a little daughter. The significance of that is that when we went back to Fort Bragg I think he had his orders changed and was going someplace else. He came up to the office to tell everybody goodbye. Of course, I was back there for a few days before I went to Europe. And I guess he stayed longer

upstairs than he should have, since his wife and his daughter were waiting downstairs. Finally he left and I was sitting in my little table cubicle I told you about and I heard people laughing. So I got up and they were all looking out the windows of the top floor of the building and his wife was mad with him for staying in the building so long. She'd drive around the block and stop and he'd try to get in the car and then she'd speed up so he couldn't, and he was chasing the car and it was just a mess. I thought about that many, many times. I often wondered what happened to those people and if they ever made up afterwards or what.

When I was BG it seemed like I was always sitting on a board of some kind. They give you a folder and you sit on a promotion board and everyone has a different color pencil. Inside the packet is a microfiche of all your efficiency reports, so that you can review your own file. I always thought they did it for another reason. I always took the first one out and put it in the little machine and turned it on my first OER. I don't remember now who the rater was, but Colonel Kiechel was the endorser. It's sort of a humbling experience. If you read my first OER, which you're entitled to do, you probably will be wondering how

in the world I ever made Captain. I always found it very refreshing to look at that first OER before I started reviewing other people's OER's. Actually, it wasn't all that bad. As I recall, on one side there were boxes, I think about seven of them. You'll have to read it to get the real words, but, you know, it's like--number one is "Best Officer in the Universe" and number two is "Best Officer in the World" and number three is "Best Officer in the U.S. Army" and, you know, number four is "Pretty Good Officer" and something like that. And I think I was box four. I looked at that and I thought, gee, that's nice of the old Colonel to say that. I went on about my business always thinking the old Colonel was pretty nice. And it wasn't until later years that I began to realize that that wasn't a very good efficiency report. I mean you need everything top box to get up there. That's not really true or I wouldn't be sitting here today. Fortunately, the rest of them were a little better than that one. Anyway, you'll find Colonel Kiechel's name on that piece of paper.

Q: Was there any relation to the Korean build-up and the school starting up in the '50's, sir, when you came in?

A: Yes. Oh, yes. You know, the JAG School had been

at the University of Michigan in World War II. I'm sure you probably know that. They then shut down. It was reactivated at Fort Myer, strictly because of Korea, and after a short period of time, because the soldiers' facilities were totally unacceptable at Fort Myer. They were old World War II buildings that were just about to fall down. I never went to school there but I did visit there once before they tore them down. Just awful. So they were looking for a place to have a school temporarily, until we got through Korea, which that was the initial thinking.

Q: Do you recall anything about the--particularly in your early days in the Navy--instruction in the Articles of War or any type of military justice training that you received?

A: If there was any I don't remember it. Well, I had sense enough to know you weren't supposed to go AWOL and you weren't supposed to mouth off at the Chief Petty Officers. I had sense enough to know that, but I'm not quite sure how I found that out. After reflecting about it, there must have been something. I just don't remember.

Q: I was just curious if you could recall just the general circumstances about the new Manual coming out in 1951. You said you had classes, but I was

wondering if you could kind of relate the service before and after, if there was anything that stood out.

A: Well, I can't take you much further back than 1916, but the 1916 Articles of War and the Articles of War through World War I and even up through 1929 were basically the same thing. And when General Crowder was The Judge Advocate General the Articles of War in 1920 had a revision, and they did make some changes. That's when he and General Ansel had the big argument. General Ansel had a code which looked very much like the '51 Manual. And then in '28, I believe, they made a few amendments. Well, before that, they added Article of War 50 and a half, which established the Boards of Review. But before that there was really no review made of a court-martial in time of war and, of course, in 1918 they had the Fort Houston riots and they tried folks down there, and they'd make a little bit of record every day and at the end of the last day, the reporter completed the record, presented the action to the Commanding General, he approved the death sentence and they hung a bunch of people the next day. That's what started a directive which required TJAG reviews of certain sentences, maybe the death penalty, and that was how Article of War

50 and a half got in there. And then there were a few of them made at the end of World War II, which was the Elston Act of 1948, and that's when we got the 1949 Manual, and I tried some cases under the 1949 Manual.

To tell you the truth, at least initially, you could hardly tell any difference between the '49 and the '51 Manual. Under the '49 Manual we had a Law Member who sat with the Court, and so visually then, when 31 May rolled around under the '52 Manual, you walked in the courtroom, you could at least see a little bit of difference because the Law Member no longer sat with the Court. Indeed, he was the Law Officer and sat separately. You could see that difference. Under the '49 Manual, when the court retired they made findings of guilty and voted on the sentence at the same time, so they made one announcement. In one case that I prosecuted at Fort Bragg under the '49 Manual, we were using a room one day as a courtroom, very, very narrow and crowded, and the accused and his counsel were standing in front of the president of the court literally, very close together. The president of the court said, "It is my duty as president of the court--" blah, blah, blah-- "--guilty and sentence you--" about that time the

accused hit him right in the mouth. So we were back trying the accused again a couple of weeks later. Of course, you could see that difference because findings were announced and you had evidence in mitigation and extenuation as you do now.

Other than that, at the outset the instructions by the Law Officer seemed not to differ at all to the instructions that the Law Member had given. He would read the elements of the offense that were in the Manual, very, very short; they would occasionally have something to do with intoxication and then they'd read Article 51(c), read it right out of the Code, and that's it. All those instructions never took more than a couple of minutes at the outside. So, initially, there seemed to be very little difference at all. And then, of course, the Court of Military Appeals, in its decisions, gradually got the Law Officer doing more and more and more, and the instructions today, of course, are very extensive. Today the Military Judge, as you know, is more really the Judge and so the system has matured in complexity.

Sometimes I wonder whether we do any better job than we used to do, as far as justice is concerned, in relationship to the punishing the

guilty as quickly as possible. Certainly it's a more complicated procedure today. And I have seen that, of course, develop. The role of the Court of Military Appeals is predominate today. It was not in the early days; it was sort of looked upon as a super-duper board of review and, indeed, at one point in our time we, in addition to boards of review, had had something called the BRJC, which was the Board of Review Judicial Council. It was in the nature of an en banc proceeding and it was a way to reconcile differences between panels. And so the Court of Military Appeals was looked upon as being a civilian BRJC and, of course, they were much more than that.

My first assignment after the basic course was at USAREUR headquarters rather than at V Corps. It's a little confusing, but when I first went to Fort Bragg, it was not XVIII Airborne Corps but V Corps. I arrived at USAREUR after finishing the basic class here. I arrived there, as I recall, the 20th day of December 1951, having spent several days on a boat out of New York, a World War II troop ship. Arriving in Bremerhaven I was not met by anybody, of course, from the JAG. I finally managed to get on a train going to Heidelberg and arrived in Heidelberg. Of course, there was nobody

there to meet me. I got out to USAREUR headquarters and reported in, and they were just starting on the Christmas holiday schedule. I was only there a very short time when five o'clock rolled around, and, of course, everybody said, "Well, it's time to go home, and we started the holiday schedule; it's a half day off and we don't really have anything for you to do anyway." And so I spent the Christmas holiday season in a hotel that was used for geographical bachelors and others, all by myself. And I always remember that.

At the time that I became the Assistant JAG, in '79, of course the Assistant JAG traditionally for the last several years anyway, has been the first-line supervisor of the Exec at PP&TO with respect to assignments, and The Judge Advocate General basically lays down policies that he wishes followed and it's up to the rest of them to carry them out. When I became the Assistant JAG I called the Exec at PP&TO; in fact, I called everybody at PP&TO and I told them about this incident and a couple more. And I told them that if they ever involuntarily sent another JAG out of the basic class, September class, to Europe on Christmas, just go ahead and pack up their bags and leave the JAG Corps because they would be fired, and I'd see

to it that they never got promoted, never got a decent assignment, never got anything. I felt that strongly about it. And nobody out of the basic class since '79 has ever gone to Germany before Christmas either and I don't think they ever will anymore now, because we've got that policy taken care of. Anyway, so I was at USAREUR and my recollection is that there were 47 JAG officers in the USAREUR JAG office at the time. Have you been to Europe?

R: Yes, sir.

A: There were 47 as I recall. The SJA was a Colonel - - excuse me, not the SJA, they still called him the Judge Advocate in those days. He was a Colonel named Daimon Gunn. And I was in a little office right across the hall from COL Gunn and my title was the Assistant Control Officer. My boss was a Lieutenant Colonel Curtis L. Williams and his title was Control Officer. Really, he was the Exec and I was the Assistant Exec. They just used different titles. And so I did a number of things that I suspect the Assistant Exec still does today over there. But I also probably did a couple of things the Assistant Exec didn't do.

For example, Colonel Gunn had a Saturday morning inspection. An inspection each Saturday

morning, I should say. I used to follow him around with a little note pad and Colonel Gunn took care of some very weighty matters like determining if someone's in-box didn't match the out-box or the desk or some such thing as that, or the curtains were dirty or such things, and he would instruct me to take care of them. Of course, there's no way you're going to get all new in-boxes, desks and chairs and all of that stuff, and so I would swap them all around in the hope that they looked like they would match up a little better, and Colonel Gunn wouldn't notice that the next Saturday. A very important job, as you can see.

And then also I had a very, very small little office, very little small thing, with a partition that was very thin. There was a board on the wall much like you've seen in JAG offices, I'm sure, covered with acetate and you keep track of charges preferred, confinement, 32's and all of that. Well, this was the identification and location of every JAG officer in USAREUR and my job was to keep the old grease pencil busy up there. In other words, it was the roster of JAG officers in Europe and where they were. And, so, I'd been at this job for a few weeks after languishing in the hotel room over the Christmas holidays, and I decided that

that wasn't really a great deal of fun. So, having known some people at V Corps when they were at Fort Bragg, there was an old major up there named Herman Gustaf Kliekamp, Herman G. Kliekamp, sometimes called Gus but often called Herman the German, because he was German. He was born just outside of Frankfurt, and emigrated to the United States when he was a youngster. And I called old Gus Kliekamp up and said, "Hey, I notice that you're short a lieutenant at V Corps. Why don't you talk with your boss and have him ask for me?" Well, he said, "Yeah, I can do that." I guess he did that, because a few days later Colonel Daimon Gunn walked across the hall and looked me straight in the eye and said, "There's a lieutenant around here someplace named Clausen. Send him to V Corps." To which I responded, with a salute, "Yes, sir." And we did wear nametags in those days too. So, I sent myself to V Corps. I don't know what the hell they did for an Assistant Exec. I never asked.

But, I tell you that story because about either two or three years ago now, at the usual reception with the general officers for all the JAGs in Washington, D.C. area, we had the usual thing and there was in attendance, among others, a JAG couple at the time, Suzie and Glenn Gillette.

You may know Glenn Gillette. He's still in; Suzie is now out. She had another baby and decided she would get out. But Suzie and Glenn were going to the Kennedy Center and they didn't have time to change from their dress uniforms so they went there in their dress blues, and while Glenn was standing in line to get the tickets this old white-haired gentleman walked up and said, "Oh, I see that you're in the JAG Corps," and Suzie said, "Yes, I am," and the old guy says, "My name is Daimon Gunn and I used to be the Judge Advocate in Europe." And, of course, Suzie thought he was a General because in her day all of the Judge Advocates in Europe had been Generals. And they chatted for a little while. Glenn came back with the tickets. They were about to depart and Daimon then said, "Oh, by the way, who is the JAG today?" And Suzie told him and Daimon Gunn thought about that for a second and shook his head and said, "No, I don't think I ever knew him." So, I guess I didn't exactly start out with a splash in Deutschland with Daimon Gunn. I was going to invite the old gent over for lunch but unfortunately before I had a chance to do that he up and died of a heart attack.

R: Did you volunteer to go to Germany, sir, from the basic course or did you have a choice?

A: No, I had no choice. I was told, I wasn't even asked what I wanted to do. I was told. You were asked when you were in the basic course, but I wasn't even consulted. In any event, then I went up to V Corps; a pretty interesting time. The SJA was a guy named Harold F. McDonnell, and he's an interesting guy himself. But, old Colonel Mack had been a warrant officer for a good number of years, and had gone, as I understood it at the time, to night law school. I believe he was stationed at Fort Devens and went to law school at night in Boston. I'm not sure where he went. He did get a law degree. I think it was in '42 or 3, because I'm pretty sure that I remember him saying that he was transferred as a warrant officer to Italy. He had previously applied for a transfer to the JAG Corps, and his transfer to the JAG Corps came through after he left Massachusetts but before he arrived in Italy.

When he arrived in Italy he was sworn in as a JAG Captain. This is early '52, I think, and, by this time Colonel Mack is a Colonel. So, he went from Warrant Officer to Colonel in maybe nine years, ten years perhaps. A very interesting man. He was trained in the old school. He was really not familiar with the then brand new 1951 Manual

and the Uniform Code, which made it a little difficult to deal with him sometimes because if you wrote an advice or review and cited some COMA cases, for example, he'd always ask you, "Well, what does Bull JAG cite?" "Bull JAG" being an old publication that used to cite Board of Review decisions and administrative opinions out of the JAG office. But he was a nice guy. Very nervous until he got to be a Regular Army full colonel I remember.

But he did something else; in 1952 when I joined V Corps President Truman issued his desegregation order, and it was at least by the middle of 1952, because I'd been trying a lot of cases. I had heard of a Lieutenant named Jim Haynes, H-A-Y-N-E-S, who was in a transportation group over in Hanau, and it was all black except for a few white officers. Jim, of course, was a black officer, and he had quite a good deal of success in defending special courts. You have to remember now that back in those days, the time frame about which I am speaking, JAG normally tried general courts. The new uniform code started something new called a "BCD Special," and we started out trying BCD Specials when I was at Fort Bragg, but there was a different hierarchy in

review than what you would be familiar with today, and it caused a lot of administrative headaches. There were people at that level that didn't really understand about trying cases and non-lawyers were trying a lot of those cases. And, so, as a result of that, The Judge Advocate General got an Army Regulation changed to provide that first of all to have a BCD, it's the SJA's business today, you must have a verbatim record. So they simply changed the Army Regulation to provide that you could only get a court reporter for a BCD Special with the permission of The Judge Advocate General, and The Judge Advocate General of the Army never gave his permission.

Therefore, during his time frame there were no BCD Specials tried. So, it was either a regular special, which was then tried by non-lawyers, or it was a general court, all of which were tried by lawyers. Colonel Mack had heard about Jim Haynes and he called me in his office one day and asked me to sit down, and he said, "Have you heard about this black lieutenant?" I said, "Yes, I've heard of him." And he said, "Well, what would you think if I got him detailed to the JAG Corps and brought up here?" I thought to myself, I wonder why he's asking me that. So, I decided that I may as well

tell him, and so, I said, "Hey, Colonel, you know, I'm just a new lieutenant in the Army. I don't understand why you're asking me this." He said, "I know you were born and raised in Alabama and I just want to know if you're going to get along well with Lieutenant Haynes." I said, "I'll do the best I can; I'm not sure I understand exactly what you mean." "You've never been around black people," he said "Sure I have; all my life," I said, "though I'll have to tell you that most of the ones that I knew washed clothes and cut the grass and things like that." "That's why I'm asking you," he replied. I said, "Colonel, I'll do the very best that I can; that's all I can tell you."

So he brought Jim Haynes up and he did get him detailed to the JAG Corps. I don't believe that Jim Haynes was the first black detailed to the JAG Corps. I think there was somebody else during World War II perhaps, but he certainly was the first one that I knew about, and I shared a small office in the I. G. Farben building, now called the Abrams building, with another officer whose name I do not now remember. But, in any event, old Colonel Mack moved the guy that was in the office with me out and moved Haynes in, and it was funny at the time in some respects, and it was a little

sensitive at times because Colonel Mack was correct. I had never had any dealings with black people before in such a relationship at all, except to the very minor extent that I had had these kinds of relationships with black officers maybe, and sergeants or something of that sort at Fort Bragg. But it was pretty fortunate, I think, for me anyway.

We were on, at that time, I think the second or the third floor of the Farbern building on one of the prongs, of course. And what was called the Northern Area Command SJA office was on the fifth floor one prong over, and the SJA over there at that time was a fellow named Swede Hanson. I had no idea what Swede's real name was, everybody always called him Swede. And he's also been called probably the sweetest guy we've ever had in the JAG Corps. If you ever met Swede Hanson you'd know that he was a very kindly, courtly gentleman.

Anyway, I had a little confederate flag in those windows. Of course, one of the first things Jim Haynes said was, "Why do you have that flag there?" I said, "What do you mean why do I have that flag there?" I can't remember the whole conversation, but he told me that sometimes that was not really looked upon very kindly by blacks,

and so as a way to try to get along, I took it down. Then I remember one day I got mad about something, and I said, "Well, there's a nigger in the woodpile here someplace." He asked, "Why do you say that?" I said, "What do you mean why do I say that? You're always asking me why I say something." He said, "Why did you use the word 'nigger'?" I said, "Everybody uses the word 'nigger' where I come from." And he said, "That starts fights; people don't like it." Anyway, he took the time to explain all of this to me; educating me. He never got mad despite some of the things that I said; he never got mad, and he was very patient, and he explained all of this to me, which I'm sure stood me in very good stead in later years in life.

I owe a lot to Jim Haynes. I do not know where he is. We stayed in very very close touch; his wife was from Alabama incidently. We stayed in close touch for years and then it dropped off to Christmas cards and then I no longer got a Christmas card from Jim Haynes and no acknowledgement of the ones that I sent, so finally I stopped sending them to him. So, several years ago I tried to locate him. I looked through the Martindale-Hubble, I went to the ABA once, I went

to their computer and I even went to the Pentagon, to the library where they have telephone directories and got a Cincinnati telephone directory, and I haven't been able to locate him. I don't know whatever happened to him.

R: Were you assigned as a trial counsel when you were in V Corps, doing justice research?

A: I was almost, with only a few exceptions, I was always a prosecutor. In those days we did not have area jurisdiction with which you're probably familiar. V Corps tried its own cases and other units tried their own cases, and so I traveled a great deal. In fact, I traveled so much that I went to see Colonel Mack one day and I said, "Look, I am on the road so much trying cases, either trying them or preparing for them, that I'm just never at home. Can't you get permission for my wife to ride in an Army sedan?" And he did. As a consequence, though, over a period of about a year and a half, we criss-crossed Germany all over. It was not uncommon at all, for example, to leave Frankfurt and, say, take off in the direction of Schweinfurt, go toward Munich, hit places like Hoff and Baden, to either talk to witnesses or set cases up or have the Germans subpoena people. In those days it was still occupied country and I was

authorized under the Occupation Regulations to subpoena Germans. All I had to do was sign a subpoena and give it to a German policeman and he executed it. Or trying cases; we used to try lots of cases in Munich and Nuremberg, Heidelberg, and Stuttgart.

My wife and I just really got to travel all over Germany that way for about a year and a half, and had a heck of a good time. In fact, the very first case that Jim Haynes and I went on we went on such a trip. That's the reason I remember it. We went through Schweinfurt and ended up over in Nuremberg in a hotel that the Army used to own, confiscated from Germany. And we were in different hotel rooms and lo and behold who should turn up but Colonel Mack, and he had some flimsy excuse about some kind of business up there. What he really came over for was to check up on me, because as soon as we got on the elevator and went up and Haynes got off, he asked, "How are you getting along?" I said, "Doing okay, colonel, we're doing okay." But he asked me that question constantly for some weeks every day; -- "How are you getting along? How are you getting along?" "Doing okay; doing okay, colonel, doing okay." Anyway, that's just how we used to try cases. The business of how

we tried the cases in those days would give a different flavor to folks as opposed to how you try them over there today.

R: You said that there was an SJA for an Area Command, a western and eastern. Is that just the way Fifth Corps was organized?

A: I don't know about western and others. Probably the best way to explain that today would be that if you go, for example, to Fort Hood you'll find Headquarters III Corps, but you'll also find a Post Headquarters. If you'll look at the stationery today it will say "Headquarters Three Corps and Fort Hood," or "Headquarters XVIII Airborne Corps and Fort Bragg," "Headquarters 1st Infantry Division and Fort Riley," so, really, the Northern Area Command was like a Post Headquarters. Understand now there was no such things as a post there, but they basically had the support troops that took care of the housing and the commissaries, PX's and that sort of stuff. And V Corps was a tactical command. That was the difference between the two headquarters.

R: Sir, you indicated you tried a lot of cases. I was curious on your thoughts as to how well you were prepared by the basic course to meet that load.

A: Not a darn bit better than you were when you went,

I'm sure. In fact we just talked again about this the other day when I was down here for the Reserve JAG Conference, and we had sort of an executive meeting, and the subject came up. Once again, brought up by one of the Reserve officers. Why can't you turn out people from the basic course that know more about procurement and administrative law. And I said there's no way the JAG School can do those things anymore than they can turn out better prosecutors. The people that are right downstairs now, the 107th Basic Course, are not going to be hotshot prosecutors when they leave here, not unless they've learned it some other place, because the school, first of all, is an academic institution, and except for moot court and any moot court you might have had in law school, you have absolutely zero practical experience. So, you have to learn.

I do believe that we perhaps did a little better job when I came on active duty in training people than we do today. And that has gone up and down. But, for example, when I went to Fort Bragg old Colonel Kiechel sat me down and made me read Board of Review decisions and then after awhile he let me draft an advice and review or two and I turned them in to one of the older guys and they'd

review it. Then he made me, I don't know which was first, whether it was Assistant Trial Counsel or an Assistant Defense Counsel, but it was one or the other, and I did a few of this and a few of that as assistants, and after I had done several of those well then I was allowed to be listed at least as the Trial Counsel, and one of the old Trial Counsel sat in the back of the room when I prosecuted the first case on my own. His name was Dennis York, an old, old friend who just happened to have been on active duty a little longer than I had. Dennis is now retired and lives down in Atlanta with his wife Rosemary.

And so that's the way we got started. Today we say we do something like that, but we really don't do it, I don't believe, to the extent that we were able to do it then. One of the reasons, I think, is simply we don't believe that we have the time. The military justice workload is about the same as it's always been. We've taken on so many other different responsibilities in Procurement, Administrative Law and that sort of thing, Environmental Law, whatever, that we don't feel, generally speaking, that we have the time to do that.

There was a time, for example, that we used to

send people right out of the basic course, in some cases, in two or three weeks; at one time they wanted to do it in six months. They assigned you to a company and you'd follow the company commander around-- you were a shadow of the company commander. If he got called in the middle of the night to get a guy out of jail, then you got up and went with him. But we gave up on that for some reason. I think maybe we spent just a little more time seasoning our people than we do today. It's more difficult, and time consuming, to try a case today than it was back in those days. The process is longer, the instructions alone take up much more time. I think we've talked about that a little bit, didn't we? About the changeover from the '49 Manual to the '51 when I was at Bragg?

R: Yes, sir, we did.

A: It's more complicated today and so that's another reason why guys that leave the JAG School today, the basic course, are not hot-shot prosecutors. They've got to get out and get some practical experience before they get to be good ones. Getting back to V Corps, I did learn one lesson. This is not a very interesting story, but it was interesting to me and it taught me something. That's about the only way you really learn. You

asked a question about the Northern Area Command; I'm sure that you probably read the Overseas Weekly. The Overseas Weekly was started either just before or just after I got to Europe, and it was quite different than it is today. More of the yellow journalism type of newspaper than it is today. The old general who was the Northern Area Command commander had been in the PX one day and observed a lady in slacks, rather broad abeam, and thought she looked unattractive and that evening at the Officers' Club over drinks he made a statement apparently that fat women should not be allowed to wear slacks in the PX because they were so unattractive. And some "do-gooder" chief of staff, said, "Well, if the general doesn't want fat women in slacks in the PX then he'd have a directive issued, an ordinary command directive issued that fat ladies would not be allowed to wear slacks in the PX." Of course, the first question is who is going to tell the lady she's fat? This was really a colossal error back in those days. It taught me a number of things.

Well, it went on and on. There were some other things that happened like the old guy saw a lady one day in either the commissary or the PX that had on a somewhat diaphanous blouse and no

brassiere, and so then they directed that you had to wear a brassiere. It just got really ridiculous with the instructions. And the Overseas Weekly, used to be called the Oversexed Weekly in my day, picked up on this and there was just article after article after article about this. Well, finally somebody sensible stepped in and quashed the whole thing. But it taught me several things; one, you ought not, if you're in a position of authority, go about saying you like this and you don't like that unless you realize fully that some well-meaning subordinate may well dash out and do what he thinks you want; and then secondly, you ought not to ever issue an order or write a directive that you can't carry out.

It's kind of a dumb story, but I really thought I learned something from that. It really was embarrassing. So everybody was laughing at the hierarchy because they picked up the Oversexed Weekly and here's another article about who is going to inspect the ladies to see if they have on brassieres and things like that. It was terrible. They really had a heyday with that.

As far as the job, though, it was just hard work. In those days we started a case one day, and unless it was really something unusual, we finished

that case that day. If it was one that took a couple of days, then we would still go very late at night and start the next day and go very late, so it wouldn't take three, four, five days, it would only take two. And so I spent all day, every day very, very often until quite late at night; did nothing in the world but either get ready for a case or trying the case, day in and day out, hundreds we tried. Because it didn't take as long in those days to try a case for some of the reasons that I've explained, in a very short period of time I had tried hundreds of cases. There is one other thing I can think of. Let's see--I get to edit this, don't I?

R: Yes, sir.

A: During this time my father-in-law became ill in Tuscaloosa, Alabama. He had a rather serious operation, had part of his stomach removed. The only importance of that is that my wife went home because of the seriousness of the operation, so I was left there by myself. The First Infantry Division was then located in Germany at Wuerzburg, I believe, and there was a big party. The SJA was there; I was there. We had drinks, dinner, so on and so forth. Boys very often just talk shop anyway, so we were talking shop and the SJA of the

First Infantry Division was a Lieutenant Colonel Harold Parker, later the Assistant Judge Advocate General of the Army. Hal Parker was, I think, an Artillery officer, non-JAG, I am pretty sure, and he had gone to law school after World War II under what today we would call the FLEP program. Hal Parker graduated from law school around, say, 1950, and he was a Lieutenant Colonel JAG, and he did something for somebody, I don't know exactly what he did, but then he was made the SJA of the First Infantry Division.

So we were sitting around at this party and the subject of cases came up and Lieutenant Colonel Parker was attempting to explain to us Lieutenants how you try cases. And it got the best of me; perhaps I'd had a drink or two and I said, "Colonel, how many cases have you tried under the new Manual?" He said, "None." I said, "How many have you tried under the old?" and he said, "None." I said, "Well, I've tried so many I've long since lost track and maybe I ought to tell you how to try a case instead of you trying to tell me how to try them." That did not endear me to Lieutenant Colonel Parker, later Major General Parker. But in his behalf, when I was the Chief of the Military Justice Division and he was the Assistant Judge

Advocate General and Larry Williams was the Assistant JAG for Military Law, he turned out to be my senior rater. In those days they called it "rater." Excuse me, I'm sorry, Larry Williams was the rater and Hal Parker was the "indorser" as they called it in those days. I still remember the remark that he wrote, "He would be a great GO pick." That's all he said. So I guess he didn't hold that against me.

That takes me through V Corps and I left there in, I think, about July of '53. You may have the exact time, but I believe it was July. I came in the Army, as we talked earlier, from the USAR and I was still a USAR officer, but I was also what was called an AUS officer. Somewhere along the line my wife and I had decided that, by this time I'd been in the Army for awhile, and we were having a pretty good time and gave some thought to really staying in for awhile. I applied for Regular Army Commission and that paperwork floated around someplace, up to OTJAG, I assume. The rule in those days was that you had to go on a RA tour for one year and you had to do it in the Office of the SJA of the next higher GCM jurisdiction. So the next higher GCM jurisdiction was 7th Army at Stuttgart. And so they moved me from V Corps to

Stuttgart so that I could do my one year tour in the next higher GCM jurisdiction. It was a lot of fun. Let's see, it takes on the Autobahn, from Frankfurt to Stuttgart, about three hours, I think, somewhere in that vicinity, and still in occupation Germany; no speed laws for the Germans, but a 60 mile speed law for military people by just a general order. And so I drove down to Stuttgart, got there about the middle of one afternoon, reported in. They sent me over to billeting and I got on the list to get a set of quarters and they gave me a BOQ, which was right across the street from the officers' club, which is still there in Stuttgart. Then I went back to the office and it was just about five o'clock then, so everybody was getting ready to go home. So I went back to my little BOQ room and I was going to walk across the street to the officers' club for dinner. And this was five-thirty, and I thought to myself, what the hell am I doing going over here. My wife's up in Frankfurt and I'm eating at this dinky club; I don't know anybody around here. So I got in my Chevrolet and drove to Frankfurt. Of course, my wife was surprised to see me because she wasn't expecting me home. So she fed me. I got up early the next morning, five o'clock or something like

that, back to Stuttgart and after about a couple of days of that I said, "Ah, to hell with it." So I just turned in my BOQ room and for two or three weeks I commuted and I wasn't exactly observing the speed law either. I got a ticket one day.

Now at this time the Deputy JA is a Colonel named Roy Steele and the SJA is Colonel "Wild Bill" Connally. And so I remembered something that my uncle had told me, "Bad news never gets better. If you get in trouble, go tell your boss." So I went to see Roy Steele and told him I'd got this speeding ticket and old Roy Steele gave me a tongue lashing for sure. And I was sitting down in a chair beside his desk. He just chewed me out and after awhile, with a very dour face, he said, "Where is the ticket?" So I gave him the ticket and he pulled open the desk drawer. It was full of tickets--his--and he said, "Well, I'll just toss this in here with mine. Don't get any more." I don't know what he did. He and the Provost Marshal were friends; they killed them someway. But that was my introduction to 7th Army.

I did the same thing, basically, at 7th Army as I did at V Corps; mostly prosecuted cases and traveled a great deal as well, although not nearly as much as at V Corps because they used a slightly

different procedure. Almost all 7th Army cases were tried by bringing people there, to include court members, and that's interesting. I still tried as many, maybe even more cases, but then I did other things. For example, Colonel Connally believed the review of what used to be called "inferior courts"--summary courts and special courts, but they're still no BCD's--was just an extra duty. And so there was a room there in the building. It had a sign right over the door that said "Inferior Courts" and there was a Sergeant in there. Routinely, then, one of the Lieutenants was assigned to the Inferior Courts Branch and as an additional duty I reviewed summaries and specials, relying, of course, on the work that the Sergeant did. I've forgotten now how many hundreds and hundreds of those things there were a month. They were stacked to the ceiling all over, I mean just hundreds and hundreds of them. Mostly I was signing the thing and I had only been there a couple of days. At the close of the day you would write--what's today? The 10th of April? You'd put "10 April 1985, SCM on hand" you know, zillion, whatever it happened to be, "Incoming half a zillion, outgoing a quarter of a zillion. Total a zillion and a quarter." And the same thing for the

specials and that went across the hall to Colonel Connally. And the number continued to grow.

So Wild Bill came lumbering across the hall and he was a very dour guy. He didn't get the nickname of Wild Bill unearned, I can tell you. A crusty old gentleman. He growled and gruffed and huffed over there, wanting to know why the hell I wasn't doing my job and why the number on hand kept getting larger; it should be getting smaller if I was any good at all. "Yes, sir. Yes, sir." Damn the number. I was just working my ass off--pardon me, tape recorder--I was just working as hard as I could there, I mean, paddling as hard as I could to keep my nose above water. I kept sinking; the number continued to grow and I couldn't figure this out. I knew that the Sergeant was handing them over to me and, especially on the summary courts, I was just signing, signing, signing. Of course, I was still trying cases now you understand, so I had to pop in there when I was not actually trying a case or not off somewhere or whatever. I was just signing those things as fast as I could, getting rid of them.

So one day I said, "All right. Let's just stop. What's going on here? We've got to figure out what's going on." The old Sergeant went

through the routine; he explained everything to me and the procedure. Of course, as the Chief of the Inferior Courts Branch, the only authority I had was to approve them. I couldn't change anything; I couldn't disapprove anything. To do that you had to activate the JAG hierarchy, the bureaucracy, and so if, for example, on a summary court the maximum forfeiture happened to be 50 bucks and it said \$51, in order to correct the \$1 I had to write a little note and say, Private E-2 blah blah blah, sentence should be \$50, was \$51. And then it went down to the hall to a Major, who used to teach here at the JAG School when I was in the basic class, as a matter of fact. His name was Hartzman. And by this time Major Hartzman was a Lieutenant Colonel. We used to call him "The Collar Twitcher" because if you said, "Colonel, what time is it?" he grabbed his collar, the corner of his collar on the right hand side and he'd start rubbing back and forth with his forefinger and his thumb and every collar on every one of his shirts was threaded, like a worry stone--the Collar Twitcher. He just couldn't make a decision. He just had a hell of a time even with a \$1 excessive forfeiture. And if he agreed with it, then he had to send it down to the SJA. Well, it never actually got to the SJA; it went to

another Lieutenant Colonel, who was the third ranking man, Richard Deforest Kleverly, who still lives in Arlington, as a matter fact, very close to Roy Steele. And if Richard Deforest thought it was all right, then it went over to Roy Steele, and if Roy Steele thought this was sufficient justification, then he'd say, "okay," and then it would make its way back to me and then the Sergeant could cut an order and we'd send it over to the AG and, of course, the dollar got whacked off. It probably cost the government a hundred million dollars to reduce a \$1 forfeiture. As it turned out what was happening was that the old collar twitcher down there just couldn't bring himself to approve one of these things. He didn't want to incur the wrath of the front office. He didn't like to set things aside. And so the cases would keep piling up in his office, nothing happening to them.

I tried to talk to him and I'm still a Lieutenant and he's a Lieutenant Colonel. He'd say, "Well, I'll take care of it. I'll take care of it." "Yes, sir." And so about a day or two went by after we found about all of this and old Wild Bill came over there and started chewing on me again. I never had sense enough to keep my mouth

shut so I said, "Well, Colonel, its that Lieutenant Colonel down there. He's got all those files and he won't give them back to me." Old Wild Bill exploded through the ceiling and he went down the hall and confronted the Collar Twitcher. And indeed he had a whole blasted filing cabinet full of nothing but summary courts down there, and over in another part of his office there were special courts stacked all over the place. And Wild Bill, oh, he chewed old Collar Twitcher there something fierce, oh, did he chew on him something fierce. He just got mad as hell. He called in his old faithful chief clerk, an old, old Sergeant named Dale Bidick. He told Dale Bidick to get his troops and come down and clean out all those cabinets and give me the files back. Wild Bill had a stroke of generosity and, unparalleled in those days, he delegated to a Lieutenant the authority to set aside excessive forfeitures, unheard of in the annals of the JAG Corps. And so we got the pipeline moving again. Still, if you thought the guy wasn't guilty, there was insufficient evidence at least, you still had to send that over, but at least we got the authority to correct obviously excessive forfeitures. So that was a step forward.

R: The Colonel Steele you spoke of is the same Colonel

Steele that you correspond with today?

A: Well, I don't correspond with him; they live five minutes from us in Alexandria.

I was a Lieutenant and Steele was a Colonel. Steele had been the SJA of the First Infantry Division. Parker followed him. He got promoted to Colonel and left the First Infantry Division and went to 7th Army, and Parker came in as his replacement while I was still at V Corps. Yes, the Steeles are like our in-service mother and father. They had no children around and they adopted us. And so we've been very close ever since. In fact, we just had them over for Easter dinner with us. We've stayed very close to them all this time. But anyway, there's just so many things that happened there, war stories, but they give you a flavor for the way we used to do things differently.

For example, let's go back to the court members. We used to have, in those days, what was called a standing court. On a standing court would be such people as, oh, the surgeon and the provost marshal and the DCSPER, the DCSOPS, people who were never going to sit anyway back in those days. And every case that came in was referred to the standing court and then each of the units subordinate to 7th Army--not the Divisions, but

these are the 7th Army troops--were all tasked, depending upon whether they were brigade size or battalion size, to supply the names of some people all the way from Lieutenant up through Colonel. I think it was based on the size of the unit. We always had a long list, so every time we had a case that was convened, we had a new court. The warrant officer and the chief legal clerk would simply take the next ones on the list and they'd pick a couple of Colonels, a couple of Lieutenant Colonels and so on. There were instances where they might stay two or three days and might try two or three cases each day, two or three the next. But basically there was a new court every time we had a case and. After the court was selected, then the case would be referred.

They always had what they called the "Blue Ribbon Panel," and that was when they really wanted to have a killer-diller panel to convict somebody. Now all of those practices have since been outlawed, of course, and go back to the early CMA cases. But I never saw any harm whatsoever in the way the courts were convened. It was just an administrative business; the people who selected the members did nothing about the cases any way, had nothing to do with them, and they were just

doing their administrative thing, taking the next one in line. Now, the Blue Ribbon cases, that's something else, but the Blue Ribbon case didn't always work either. I told Roy Steele what happened on one of the cases over there. I'd better go back a little bit.

There were some apartment buildings right outside the kaserne, where most of the people lived. And in the building next to the building where I lived was Colonel Connally and the provost marshal, whose name I don't remember. But I know that the provost marshal and Colonel Connally were friends and they walked over to the kaserne almost everyday together, and sometimes I walked with them as I just happened to be coming out of the building at the same time. I knew from some of the things that the old provost marshal told me that he just absolutely distrusted Nazis completely. The significance of that is that when Germany surrendered and we divided Germany in three parts on our side, British, French and American zones, the Brits and the U.S. purged the police ranks and kicked out all the Nazis and installed some new people. The French did not do that in the French zone, which is down by Kaiserslautern. And I'd heard the old provost marshal talk many times about

that. He was just distressed that we had people on the police force down there in that area, some of whom were former Nazis. He thought it was terrible, didn't trust them. I don't remember how the hell I ever got to be assigned as a defense counsel on this case, but I did, and that happened occasionally because they did switch you around during those days, and some people switched more than others. They did not switch me a great deal, but every once in a while they made me defend a few cases, the theory being, which I endorse, whichever side it is you're on, you're better doing it if you've done the other side. So that's the reason they did that.

In any event I ended up defending this Sergeant who was accused of indecently exposing himself to two German children, small German children, and uttering some remarks which would tend to indicate that he was trying to solicit them. The Sergeant's story was that he'd been out drinking beer all night and was drunk and he had to relieve himself and there were still bombed out buildings around. So he just stopped on the side of the street to urinate and he didn't know the two children were there and they said something to him and he said something to them in English. They

spoke in German, and he spoke in English. And so the trial came on. Now the principal witness here is a German policeman from that area who didn't see the incident, but he walked up literally as the Sergeant was replacing his privates in his pants and he talked to the children. And so we get all this testimony. They got the German police to substantiate the existence of the possibility of an incident, where they were and all that, and it came time for cross-examination. Now the president of the court turned out to be the provost marshal--it was one of the Blue Ribbon courts--and so when it came time to cross-examine, my cross-examination was something along the lines of, "Herr Schmidt, how long have you been a member of the police department in Kaiserslautern?" Twenty-something years, and just asked a couple of questions like that then I said, "The defense rests." And the old Law Officer said, "Is that it?" "That's it." The court closed and they found him not guilty. And I know exactly why because the provost marshal told me. One day I happened to be over there and he says, "You are right." He said, "That damn Nazi, you can't trust him. He was lying. He was lying against an American." And I never told Wild Bill Connally before he died. But I told old Roy

Steele. So the Blue Ribbon Panel was not always successful for the government.

We used to do a lot of things differently. The CQ at 7th Army when I was there was General McCauliff, you've probably heard of him, a very busy man. Among other things we, for example, when I prosecuted a case, I didn't just prosecute the case. I'm the guy that decided who was to be subpoenaed; I got the subpoenas written up. It was up to me to arrange for the presence of the witnesses, whoever they happened to be, to arrange for the presence of the court members, to draft the pretrial advice, prosecute the case and then draft the post-trial review. Now I would say that I wrote it except in reality they were changed a little bit because the records went out into the hierarchy of the Military Justice Branch, a Major Bill Barrg and the infamous Colonel Hartzman. Then they went down to Richard Deforest Kleverly and even to Roy Steele and somehow or another in this process it got finalized and Wild Bill Connally would sign his name.

Some of us wrote them to a greater extent than others, depending on what they liked, but anyway we drafted them. Then on top of the review, for example, there was a small yellow form, a yellow

piece of paper, which was a memo routing slip. It was very simple; it just had up on top "Headquarters, 7th Army" and a little patch, and on that one piece of paper on one side one had to distill what one wanted to say to the CG because, frankly, that's often all he ever looked at. The SJA did not carry the file or the review over to the CQ and talk to him about the case; you sent it over with a little yellow piece of paper with a few words on it, and if the CQ had any questions he'd ask them. Well, everything was going along just fine until one day we received from the Pentagon what used to be referred to as a "skin letter." It got started being call skin letter because of carbon copies, you know, onionskin. When they wrote the letter out they placed a copy of it in your file. I think that's how it got to be called skin letter. In any event, there were other reasons for calling it a skin letter because they really ripped you up one side and down the other when you made a mistake. And so here comes in a letter criticizing 7th Army SJA, Wild Bill Connally, for screwing up the action in an officer case. Well, Wild Bill Connally didn't like that at all. He didn't like to be crossed by anybody and I mean anybody. So he came roaring down the hall

yelling and screaming, "Who the hell handled this case?" Somebody looked in the file and said, "Clausen, sir." "Where the hell is Clausen?" He found me, and started really just giving me hell. I didn't know what to say. Hell, I mean he has the letter; I don't even know what the letter says. I know he doesn't like what's in the letter. I don't even know what case it is, because nobody's told me that. So I just stand there and he chews and chews and chews. Finally he gave out of gas and he thrust it at me and he says, "Well, take corrective action." So now I know what case it is, at least, and so I got the damn thing out of the file and looked at it and I said--why would I do a dumb thing like that? I don't remember what it was now, but I wondered why I'd do a dumb thing like that. I got back to the rear end of the file and there's a carbon copy that is different from the action that I see in the court-martial order. And, of course, the one in the court-martial order is the one being complained about. I raised this to Colonel Bill, Major Bill Barry then and he talked to Hertzman; Hertzman talked to Richard Deforest Kleverly; Kleverly talks to Steele; Steele comes to see me and Steele and I go in to see Wild Bill; I show it to Wild Bill. Question: How did this

happen? Answer: Don't know. So Wild Bill went over to see the CG. Because, I said, "So far as I know when it left here it read like the carbon copy shows."

As it turned out, there was a "dog robber" warrant officer that worked in General McCauliff's office who read everything for the general and he didn't quite like the way the action was written, so he just rewrote it, stuck it in there and McCauliff signed the one the warrant wrote. I won't say for sure that you could hear the screams from the headquarters building all the way back over to the SJA office, but that's what was alleged for many years. I do know that before the sun went down behind the horizon, the warrant officer was gone, never to be seen again. But that will just give you an idea of how things were done and were so different than the way we do them today.

Of course, it (CQ review procedure) was the source of some of my own trouble too, because that is not what the legislative history of the Code will tell you was contemplated. It was contemplated that the SJA would be going over there himself and talking to the CQ, and indeed that's the reason, sole reason, you'll find for the argument to have the SJA in a separate box to the

General and not being under the Chief of Staff or the DCSPER, somebody like that. Direct access, which is what the Code wants, simply was not observed in 7th Army. It was at V Corps. Colonel Mack spent half his time up talking to General Dauquist. General Dauquist was himself a lawyer, hadn't practiced in a long time, but he had gone to law school and graduated. That just wasn't the practice at 7th Army.

Something else that may be of some interest here, to somebody, I don't know who, but anyway the official rate of exchange in those days was 4.25. Did I tell you this when we talked before? I did?

R: I don't think so.

A: The official rate of exchange was 4.25 marks to the dollar. You could go to Basel, Switzerland, and get in the range of 6 to 8 marks to the dollar. On the black market it ranged 10 to 12. You could get lots of marks for cigarettes in those days if you wanted to sell them on the black market. Jack Crouchet had been a Quartermaster officer, but a lawyer, and he transferred into the JAG. He was a Captain. I think he was the only Captain we had at that time at 7th Army. We had two Lieutenant Colonels and two Colonels, several Lieutenant Colonels, a bunch of Majors, a whole lot of

Lieutenants and the one Captain, as I recall, was Jack Crouchet.

Jack was on leave in Paris and had a sister named Sonja and she lived right around Basel or someplace. So Jack was forever catching the train on Friday and going to Basel. Jack and I got to be good friends and I used to give Jack money; Jack would bring me back marks from Basel. So at the official 4.25, I was getting 6 and 8 legally in Basel. I was living pretty good in Germany in those days. You can't do that any more. The exchange rates don't vary among the countries. But what I'm telling you is that the exchange rate was artificially pegged. It didn't rise and fall with the market at that time as it does today. So that was just a little way that we supplemented our meager pay in those days.

We lived pretty well over there; had a lot of friends and it was a great time being in Stuttgart and I always remained close with the Steeles, of course, and with Wild Bill, surprisingly. Wild Bill, despite that he was always yelling and screaming, wasn't really an irate fellow all the time, nor was he as impatient as he appeared to be. He mostly got angry with people who were lazy. If he thought that you were not trying to do your

best, then, oh, boy, he'd really get on your case; but if you were trying to do the best you could, then he thought you were all right. Wild Bill always screamed at everybody, but we remained close to Wild Bill. In fact, his wife remarried after he died, but we still stay in touch with her. I saw Wild Bill in the summer of '68 before I went to Vietnam. We were going down to San Antonio to the fair with the children before I left to go to Vietnam. We stopped off in Austin to see Wild Bill and he hadn't changed a damn bit; just as dour as he ever was. We sat around one afternoon, had a drink or two, chatted and we were about to leave and old Wild Bill says, "Well," he said, "What are you today?" I said, "Sir, I'm now a Lieutenant Colonel." He just looked me straight in the eye without any hesitation and said, "Well, they'll make anybody a Lieutenant Colonel these days." That was Wild Bill for you.

R: Sir, you tried a lot of cases when you were over there. What kind of advice do you have for young lawyers coming out of the basic course? Do you think what you did was a good way to go?

A: Yes. There's only one way to learn how to try cases and that's do it and nobody, in their right mind anyway, when you come out of the basic class

is going to give you the lead immediately in a case. I certainly wouldn't and I didn't when I was an SJA. I always made the youngsters be on one side or the other as an assistant for awhile under someone that I trusted, and then when they told me they thought they were ready, then I'd let them go. Considering the amount of time that you have to do that, you'd better be prepared when you do that to accept some mistakes because they're going to be made. There's no time to train every person to really be expert, you just don't have time to do that. The time is not there, so when you do cut them loose you have to be prepared to accept some mistakes and you have to accept the responsibility for that. That's the only way that you can do business. Unfortunately sometimes I have known some SJA's who just would not accept mistakes and you just cannot expect a youngster right out of the basic class with only a little bit of training to do perfectly every time. Now some may, for a variety of reasons, be better than others; some may just be luckier than others. You know, I could take two guys, if they were right out of the basic class, say approximately equal talent, and train them as assistants for an equal amount of time and turn them loose. One of them may make more

mistakes than the other one, simply because of the nature of the cases that he got; because the one has more difficult cases locked in his drawer and doesn't have quite as much time to get prepared before he gets that tough case. This is going to cause him to make mistakes. But you just have to be prepared to do that that way.

There is no other way to do business because you can't hold a youngster under your wing too long. At least I don't think you can do that because, if you do, I don't believe you allow him to increase his self-confidence. If you hold them too long, they begin to think nobody has any trust and confidence in them, and you can't do that. I always say the biggest job that any of us has is to train people to take our place somewhere, some day, some place. That's a part of training people; give them as much responsibility as you think they can handle, but you have to accept mistakes.

You have to accept, too, that some people just do things a little differently than others. What is effective for one person, may not be effective for another. I'm sure you guys have given, at least at one time or another, some thought to the fact that if you were the instructor teaching some particular thing that you've heard pitched, that

you would be thinking about how you might do that differently, not because you think it's wrong, but because you think that you should do it a little differently. And there's no question in my mind that very seldom will you find one instructor following another that uses the same sort of technique anymore than you'll find SJA's that all operate the same. They do operate a little differently out there; there's a band of acceptability. I've talked about that an awful lot; you just have to tolerate the fact that people are going to be within that band. Oh, you might like one a little better than the other, of course, in technique, but you still have to let people operate that way. Otherwise you just don't have any confidence in them. So I think we're doing as good a job as we can to get the youngsters started off trying cases.

R: How do you respond to the idea that many young lawyers like to move around and try cases for awhile, then do procurement law, that type of diversity? Would you advise that to a young judge advocate just beginning?

A: Yes. In fact, I tell the SJA's they'd better be doing that or they're not good SJA's. Now we have to understand each other, though, when I say that.

To move you from trying cases to procurement when you've not really had a sufficient amount of time to learn how to try cases is a mistake. That's a move solely for the sake of appearance. What I should be doing, if I'm your SJA, if I can possibly do it, is to leave you prosecuting cases at least for a period of time sufficient for you to become good--maybe not as good as you could ever be if you stayed there longer--before I moved you to some procurement work and get you to understand some procurement business.

As always, you have to strike a balance, but as the years unfold, if you're going to be an SJA, I think it is useful for you to have done the things that you're going to ask other people to do. You see, that's the mistake that Lieutenant Colonel Parker made, in my view; that's the mistake the Army made by putting him there. As it turned out, he wasn't really a mistake and the reason I say that is that Hal Parker was such a super-duper person, a very smart, bright guy, that even with that kind of a disability, he did a great job. But lots of other people with a lesser ability failed. And that's just not the best way to do it. That's the reason the FLEP today is the way it is, because of the experiences that we had with people like

General Parker after World War II. Indeed, the law even provides for that no earlier than the second year, and no later than the sixth. That is to avoid having people come out of law school taking a very senior leadership position with no experience.

I've seen that happen particularly in other contexts. John Turner is the SJA out at Fort Ord right now. John Turner was an Infantry officer who went to Leavenworth as an Infantry Major, having completed law school, going to night school some place. He applied for a transfer to the JAG Corps and midway during the C&GSC course he was transferred to the JAG Corps and, out of the bigness of his heart, George Prugh sent him to me down at Fort Hood. Actually I shouldn't say that. I know why General Prugh sent him down there, because he thought I had a big office and I could help train him. But be that as it may, when John Turner walked into my office he was a Major; he was a JAG Major. He had absolutely zero worth of experience in the JAG Corps and I said, "John, I'm going to treat you just like I would a brand new Captain coming out of the basic class at the JAG School. That's all you are. In fact, you're not even quite that good. You haven't even been there

because they wouldn't send you." So I moved John Turner around as rapidly as I could. John was a quick learner and that's the reason I did that; I wanted to try to get him to do as many things or at least become familiar with some of them as he could, because, if he was to move along and be an SJA, he needed to know some things.

You'll have to talk to John Turner to see if that worked out all right. I think it must have though; John got promoted to Lieutenant Colonel, is now a Colonel. I sent him out there as an SJA, so I think it worked out all right or I wouldn't have sent him out there in the first place. I think John is a good SJA. I don't recommend that as a way to do things, quite frankly, but they happen that way on occasion.

The same thing happened to me. John Jay Douglass, who was down in USARV, said "I got a Major here who just got out of law school and has been up to basic class at the JAG School and he's a West Point graduate and he conned somebody to send him over here without going to a year at a post, and I want to send him to you." I said "Wait a minute, Chief. Why me? Send me somebody with some experience." "Oh," he said, "I'll send him to you as an extra and you can train him." So be it.

So he sent him. I was the only SJA in all of Vietnam, I believe, that had two Majors.

I did precisely the same thing with Chip Haight. I switched him around as quickly as I could, staved off Jay Douglass down at USARV as long as I could. It was a very short period of time in Vietnam; you've only got a year and so how much can you really do? Well, it worked out fine; Chip Haight moved right along, got to be a Colonel, and was SJA down at Fort Jackson and retired.

R: Did you feel frustrated when you were in Germany not getting more experience in other areas--Legal Assistance, Admin Law, those types of things?

A: No, I wasn't frustrated and I'll tell you why. Number one, I was having so much fun and, number two, I wasn't smart enough to figure out that I needed it. I'm telling you the absolute truth. Nobody ever told me that, nobody ever suggested to me that I should do all of these other things. Apparently I was pretty good at it and that's what they had me doing. I wasn't asked; I was just told "This is what you're going to do." PP&TO, The Judge Advocate General and The Assistant Judge Advocate General did not travel around in those days and talk to everybody the way in which we do today, and I wasn't smart enough to figure that out

for myself. I did, however, do some of those things later at some other assignments and I think I would be safe in saying I've done just about all of them later, but not in the early days in Germany.

R: Sir, I was curious about one aspect of your assignment when you were in Germany. The Korean War was obviously going on and it was still an occupation state--were there any implications under those two events during your tour there?

A: Well, of course, it was much easier to deal with the Germans since it was an occupied country. The simple one I think I mentioned and that is if I issued a subpoena, the German police were obligated to go and get the guy and bring him in, and you can imagine how that would work today. You could get them but it's more involved procedure; then it was instant obedience to the occupation authority. I don't know that I really had a chance to think very much else about it. It was obvious to me, of course, that when American soldiers committed offenses against Germans, we tried them all since there was no Status of Forces Agreement. I was aware of that. That was the case to be perfectly honest with you. In fact, I sometimes thought the Germans were trying to do us in and I was a little

suspicious of them.

I remember trying a case once, it was a larceny and an assault. A guy had stole a case of beer from a gasthaus after assaulting the owner and his daughter. And after the trial was over the CID had brought the case of beer in, so he wanted to be paid for his beer. I said to the CID "Give him his case of beer back." My German wasn't too good in those days. In any event, we simply weren't communicating and I thought he was trying to gouge the Army and so I said "Give him the case of beer if he wants it. If he doesn't want it, just leave it." And off we went and it was only maybe a couple of weeks or so later that I really discovered why he really wanted the money for the beer and not the beer itself, that is to say the unpasteurized beer with which you're probably not familiar. You've probably never seen a bottle of beer with a china stopper on it, with which they were all capped or canned, and this is the old time unpasteurized German beer with a china stopper and a piece of rubber, a wire, push it down, and, of course, the shelf life of that beer is very short. I mean you drink it. That's the reason, traditionally, when they drink the dark beer they drink that stuff up in a hurry. I mean you can't

just drink that beer year around; there's no way to keep it. So no wonder he wanted the money for his beer, because it was no good. I felt very badly about that. So I went to visit the gasthaus and I paid him for the case of beer out of my own pocket. It was a good move on my part; we got to be good friends and I had a gasthaus where I could go. My wife and I used to go there all the time. We got to be big friends with the gasthaus owner. I was integrated into the Regular Army while I was at Stuttgart. I had to go to Heidelberg and appear before a board of officers, one of whom was a Colonel Waldemar Solf, Wally Solf. Have you heard of him?

R: We've heard of him, sir.

A: Wally Solf was the last of the legends in the Corps. Wally Solf was a Lieutenant Colonel then, his area of expertise in those days was supposed to be Military Justice; in later years he fancied himself, and indeed was, a very experienced guy in International Law and good at it as well. But in those days it was Military Justice. In fact, if I'm right, at that time he was the Chief of the Military Justice Division at Heidelberg. I remember that very well because I remember one question that he asked me. They asked several

questions, but the only one I can remember that anybody asked was one that he asked. He started off by telling you that he'd just gotten back from the JAG Conference in Charlottesville. (Incidentally, it wasn't really the JAG Conference because the first JAG Conference was not even held until 1956. What he really attended was a conference with respect to the administration of Military Justice. This was '54 and the first one, at least, that's what all the experts tell me.) In any event, he said he'd just returned from the conference in Charlottesville and that they'd had a lot of discussion about the relationship between defense counsel and their clients; that there had been a rash of cases arising in that time frame in which the people in the Defense Appellate Division were raising incompetence of counsel and feelings were running pretty high that these guys up at Washington accused guys out in the field of being incompetent, especially without even talking to them.

You still find the same thing today; the Defense Appellate guys claim the TDS is incompetent and they start butting heads right away. It's interesting when that happens, too, because the guy in the Government Appellate Division becomes the

TDS counsel's lawyer--right? So that's sort of an interesting thing.

But in any event, he said that they'd had a lot of discussions about this and he wanted to know what I thought about having a court reporter present when defense counsel talked with the client, especially when they had discussions with respect to a guilty plea. I said, "Colonel, I think that's a very bad idea. I don't need any protection from my clients when I'm a defense counsel. I like to deal directly with my client and I don't want anybody else present unless I choose to do so because I think it's necessary in the case, and if my client wants to claim foul later on, then I'm willing to have that out." And Wally Solf said, "Well, perhaps you'd like to know that at the conference I recommended that we do that. Do you want to change your answer?" And I looked him in the eye and said, "No, sir." That's all I can remember of that interview.

Incidentally, that's when Wild Bill Connally had me made a law officer. He sent a message out for me to be certified and the message came back from the Pentagon that they didn't certify Captains as law officers and Wild Bill sent back a message which in effect said, "I want it and you'd better

do it." So they certified me as a law officer as a Captain. I never sat as a law officer in Europe, but I did when I returned to the United States. I sat as a law officer on quite a number of cases. But that's the next assignment.

R: Did you go to a Judge's course or any kind of course while you were in Europe after that certification?

A: No.

A: I did start a Judge's course later, but that's a little further down the line here, when I was at New Orleans.

R: Sir, we have you going to the US Army Transportation Terminal Command. I think a Major General Vissering commanded down there.

A: Yes, I think the original title of that was the New Orleans Port of Embarkation. I believe that was the title when I first got there. I could not begin to tell you all of them. They changed it several times and tried some odd things and I'll try to tell you about that as best I can, but I only remember the names of those that are important. There probably are some pieces of some orders in the old files up there in the annals. I rather doubt that it's important that you look at those.

Yes, General Vissering was there, an interesting man. He came from a rather wealthy family in Florida, who grew a lot of citrus groves; probably just as well he was there then and not today with all the trouble they've had with the freezing. That's one time I learned something else that stuck with me. My first SJA was a guy named Baumgartner and I'll talk more about him later, but he went on leave once and while he was gone General Vissering called down, "Give me Baumgartner." So I went up, of course, because Baumgartner was the SJA, I was the Deputy as a Captain, and we had twenty-two Lieutenants in that office. But, anyway, I went to see General Vissering and he wanted to revise his will and create some trusts for his children. And I told him that, number one, we didn't have anybody in the office who was from Florida and, number two and more importantly, we didn't have anyone in the office that, in my estimation, had sufficient expertise in the complex area of trusts to be able to write one for him. Since there was several sums of money involved, I thought he'd be better off to use the services of a Florida lawyer who specialized in that sort of thing and I'd be willing to help him get one. I asked if he knew a lawyer somebody through his

family. He said, "No, no," he'd appreciate it if I'd help him.

So by the time Baumgartner had returned from leave I had already written to the Florida State Bar and told them what we wanted and would they send a list of three or four attorneys who specialized in that. Well, Baumgartner got back. He said, "Well, what's been going on?" I said, "Ah, not much of anything, pretty usual type stuff here and I did go see the General once about his will," and, oh, he just got mad and took me with him to see the General. He said, "I want to tell you, General," he said, "We'll write that will and we'll write those trust agreements for you." And it was embarrassing because ol' Vissering looked me in the eye and he said, "Well, Henry, I thought I got some good advice and I'm going to stick with it." And so I've always remembered. I don't know if I've been successful but I've always tried to avoid getting myself involved in doing something I don't know a damn thing about, and that's pretty good advice. I pass it on to you. You ought not to try to get yourself and your office doing some things that you're just not competent to do. There are ways to get it done and I thought that was the way to do that. And, incidentally, General

Vissering did, as a matter of fact, use a Florida lawyer.

R: Sir, you had some notes in your files indicating 238 GCM cases tried as a trial counsel and 63 as a defense counsel and you were a law officer on 92 cases.

A: I bet I know where that came from. That was on a piece of paper that I had stuck in front of the '51 Manual. Is that right? That's not an accurate count. The reason it's not an accurate count is that I ran out of space--if that's the same piece of paper I'm thinking about to keep that and I finally gave up. But that was down at New Orleans. That was just at that place and God only knows how many others. How many did I say were as law officer?

R: Sir, 92, at this particular time. The interesting facet to me is whether you'd like to talk about the role of the law officer in relationship to any changes.

A: Yes. First of all, we had no US Army Judiciary in those days, so the situation in New Orleans was as it existed for me at Fort Bragg and Heidelberg, (where by the way I did more Military Justice business) and at V Corps and at 7th Army. That is to say, the law officer was simply assigned to that

office and the guy that was the law officer at 7th Army was a Quartermaster officer. I'm not even sure he was detailed to the JAG Corps; probably was. But his name was Tressler.

The law officer at V Corps was Major Casper V. Bynum and, of course, in both of those cases they were rated by the SJA. I was rated by the SJA in New Orleans during this period of time under Baumgartner. That's when I tried those cases. I don't know that that number is accurate, that may not include them all, but that was within probably not much over a year, maybe as much as a year and a half, but I doubt it. The important thing is that I, the law officer, was rated by the SJA and, of course, that is one of the reasons that caused somebody to think of having the US Army Judiciary in the first place, to avoid the appearance of a conflict.

Before I got there I think there were two guys and one was the Deputy and one was the law officer, but when I got there two guys were not provided. They only provided one, for reasons unknown to me. And so I alternately did both jobs, although not on the same case. That lasted for about a year. There were a lot of myths created and I could tell you a little bit about the first Law Officer's

course held here at the JAG--not here, but at the old JAG School. This was in 1958, I believe, that the US Army Judiciary was created and the first Law Officer's course, called the Judge's course, was held in Charlottesville.

Some of the myths that grew up were that younger people could not perform the task, that you had to be old and cranky to be a good law officer in order to control the court members. Not a myth was to avoid the appearance that you by having the law officer rated by the SJA, which we didn't. And we had some pretty good guys. This fellow Tressler that was at 7th Army, for example, was really a very fine minded fellow but was not accustomed to controversy. So I think he was a good law officer in a technical sense but there probably were some instances where he could have ruled just as easily the other way but probably didn't because of the reputation of Wild Bill Connally.

In any event, I had been a law officer and had sat on a few cases when the plans were announced to create what they now call the US Army Judiciary. The first course was put together as a three week course. I don't know how many people were in that first class here at the school. There was at least one Major, named George Prugh. Most of us were

Captains, perhaps some LTC's. We went through the first week of the Law Officer course with a COL Johnson. I was told that this would be this guy's springboard to being a General. At the end of the second week, Johnson came down from Washington to address the class. He looked around the class and said something to the effect, "I really do not know why all of you were chosen to come here for this course because with the exception of perhaps a LTC, all law officers are to be Colonel. You have to have a senior ranking officer in order to control the court members. It is the only way to do it." Needless to say, morale plummeted and indeed the course was canceled the next week and we all went home, including George Prugh. Some people still suggest that is one of the reasons George Prugh never had any affinity for the US Army Judiciary or anybody in it because he was rebuffed in his efforts to become a law officer. He had not been one. I had and some of the others had.

Very shortly after that, many of the then certified law officers were defrocked and a very short period later all the original law officers were defrocked except those who were Colonel and a couple of LTCs. The significance of that was, number one, in a number of instances of which I am

aware, they selected people to be law officers who had no background in military justice. Procurement types, for example, or Admin; they were selected simply because they had the necessary rank--not because they had any experience in the administration of Criminal Justice. As you probably can guess, in some cases they failed. Now when I say that they failed, you're not going to be able to find many records of reported cases which would demonstrate they failed. The reason they failed is they didn't know what to do; they always ruled for the defense and that way they never got overruled. That's the way they failed; they failed the system. There was such an intense effort because of the matter I mentioned earlier, that is being rated by the SJA. There was such an effort to demonstrate independence that the US Army Judiciary just ran wild, subject to no one. In the main nobody was willing to take charge of the program, not even this guy Johnson, and instill any kind of discipline and order into the system.

There were law officers, for example, one, who shall remain nameless, who used to boast that he bought himself a new Plymouth Fury and paid for it with his TDY money, because he traveled everywhere by car, despite the fact that it may take several

days to travel from one place to another. There were recorded instances in which the guy in Hawaii would call up his friend in New York and say, "Hey, how would you like to come out and try a case out here? It must be pretty cold there." He'd say, yes, so he'd go out there and try it, despite the fact that the guy that's in Hawaii is not doing anything. It smelled bad, very bad.

They started roaming around in civilian clothes, acting very much like totally undisciplined Federal District Judges. There were guys that wouldn't try cases in the afternoons; there were guys that wouldn't try cases in the mornings; some guys said "I'm not trying cases on either Mondays or Fridays because I take those days off." Nobody was taking charge. The damn thing was just in a hell of a state and I don't believe the system was well served at all.

This started in 1956 and when I became the Chief Trial Judge in 1976, that's twenty years, there were still some vestiges of that in existence. One of the first orders that I issued as the Chief Trial Judge was military judges will wear the uniform. There were still guys out there running around in civilian clothes. I had several of them call me up; one called me up from Fort

Benning. He lived off post and he said "Do you realize how hot it gets at Fort Benning, Georgia, and you want me to get in my automobile in a uniform and drive out there in the summer time?" I said, "If you can't afford an air conditioned automobile, take a shower after you get there." I just wasn't going to listen to any of that baloney. I was absolutely bound and determined that what vestiges of a totally independent judges and law officer syndrome we had out there were going to be crushed.

Now I'm talking about outside the courtroom. I don't believe anybody will ever accuse me of ever tampering with the way in which a judge conducts himself inside the courtroom. I have been known to say, "I'll tell you how to get to the courthouse and once you get inside you're on your own." The very guy that I mentioned earlier about buying the marks for me in Basel, Switzerland, Jack Crouchet, was a law officer in Vietnam when I was there. And Jack is a very good guy and he was a good law officer if you could get him there. But, I'd be sitting up at Lai Khe waiting for the helicopter to come in with the law officer on it; the chopper comes in; I'm out at the pad, nobody there. I sent a helicopter down to Saigon for nothing. And I'd

call up and say, "Jack, where are you? Where are you?" He said, "I missed the helicopter." "Well, why did you miss the helicopter, Jack?" "I just overslept this morning. I wasn't able to get out there at eight o'clock," or he'd say, "I was out there, but nobody came to get me." And after two or three times of this I finally got on a damn chopper and rode to Saigon once myself. You'd either come in from the east or west into the center and the chopper turns either to the left or the right and chop, chop, chop, flies in like a T, and down. I remember telling him a couple of times, "Jack, just look out the window. When you see one come in and its got a great big red 1 painted on the nose, that's for you. That's your helicopter."

Anyway, I set down the helicopter. No Crouchet. We sat there about five minutes or so, and the pilot said, "We going to take off or stay?" I said, "Well, just sit right here. I'll be back in a minute." So I go in and Crouchet is sitting in this little air conditioned shack reading. Do you remember Franklin D. Roosevelt? He used to always smoke a cigarette with a holder sticking up at an angle like this, that's the way FDR smoked. That's the way Jack Crouchet smoked, like that.

Jack looked up and I waved at him and he went right back to reading his book. I went inside and said "Jack, are you waiting for a stewardess to come and get you or what?" "Well," he said, "why be in any big hurry?" "Come on, Jack, I got court members, accused, everybody in the world sitting up there waiting on you."

That's just a small, small incident of guys who had no regard whatsoever for what other people had done or had to do. And so I'd determined I was going to stamp that crap out and we wouldn't have anymore of that. I've never once tried to interfere with them in any way. But I did try to bring them back into the fold and I think I did. That is also the reason when I was the Chief Judge, that I advised the then Judge Advocate General Persons whatever you do, don't ever let the TDS people become like the judges, the law officers. They must remain a part of the JAG Corps.

If you've ever been any place where I have been and talked, I probably have always said something about how we have one JAG family sitting out there and that's all of us. We all have different jobs to do maybe, from time to time, but we're all members of the JAG family and we must act like that. To the TDS's credit, the thing was put

together and has operated, in such a way that, while they're totally independent in defending someone in the courtroom, they remain as a part of the JAG Corps. It was a very bad start for the US Army Judiciary. It was so bad, as a matter of fact, that when General Hodson retired as The JAG, he went over to become the Chief Judge to lend some prestige to the job. There had never been a General Officer there. When I was the Exec there was a law officer, who shall remain nameless again, who three times was picked up for drunk driving on post. I don't mean he had a couple of drinks at happy hour or something like that; I mean stone drunk, driving a car, ran into a bridge, ran into another car once and, unfortunately, ran into the General's front yard once. And General Hodson wouldn't fire him because of the independence of the judiciary. I happen to believe that that's got nothing to do with the independence of the US Army Judiciary whatsoever. We're just trying to rid the world of drunk drivers, that's all.

Anyway, those problems, I believe, are long since gone and have passed. I do not know of any instance, not just in my tenure, but in anybody else's tenure in recent years, that somebody has intentionally tried to influence what they do in

the courtroom. I think we've got some good people now.

We're very careful about who we choose, of course, today and in contrast to the very haphazard way the first law officer course people were selected. I wasn't asked. I was just told; they called me up and told me to go. I personally approve everybody that's going to go to the judge's course here before they get here or are told to go or selected. I personally approve that and we only send those who either are going to become a judge or whom we believe we need to hold in reserve. For example, these days we always try to have at least three people qualified to sit as judges in Europe, but not as judges, so that if an emergency arises we've got someone in Europe on board that can be activated as a judge; and that has happened on some occasions. It's only been a year or so ago that one of our judge's wife became ill and we had to move him out in a hurry, so we just activated another guy as a judge over there. Also, we have some young people acting as judges, commonly called Special Court Judges today, but who used to be called Junior Judges; and I think have dispelled easily the myth that existed back in Colonel Johnson's day that only senior people can control

the courtroom.

We have Majors and Captains out there that do a marvelous job in controlling the courtroom. People have to become accustomed to different things, but the Army has become accustomed to a fellow with a black robe sitting in a little separate box being the military judge. And they probably know what the grade of the guy is by one means or another, but don't know of any real problem that we've ever had with a judge controlling the courtroom.

The only incident I can think of was when George Patton, when he was at Fort Hood, decided he wanted to testify as a character witness for a Sergeant. The Sergeant didn't ask him to be a character witness, you understand, but George Patton thought it was his duty because the Sergeant had served under him once. And so he barged into the courtroom and announced that he was going to be a witness. The junior judge, the special court judge was Richard Russell, and old Richard looked at him and said to himself, well, if he wants to testify for the defense let him testify. He said, "Well, have a seat, General." And then, of course, Patton said "Who do I salute?" And the judge said, "We don't salute anymore like that." Patton

replied, "When I come into a courtroom I always salute," so he saluted the judge. Then when he got back to the 2d Armored, he asked, "Why is that fellow wearing a black bathrobe instead of a uniform?" So he had to try to explain all that to George Patton, but other than some isolated instance like that, we've never had any trouble.

The system works well and the young people do as good a job in that as they will do in anything else. If you ask me to pick a relatively young Captain who has just been a judge for a short period of time over George Russell, who has had much, much experience, both as a judge and an SJA, I'd tell you, that's dumb; I'll take George Russell anytime. George Russell is a better judge, but he's only a better judge most likely because he's just done it longer and has more experience. The young guy will be just as good and you have to start out someplace; how are you ever going to get to be a George Russell, if you don't get the experience. That's how Richard Russell is getting to be a George Russell. After he was the junior judge he was the Deputy in a Division and then he was a special court judge in Europe and one of the judges over there got sick. We made Richard a General Court Judge when he was still a Major, as

I recall; then he came back and was the Deputy of a Corps, III Corps, and now he's the SJA at the CID Command.

Richard would make a dandy General Court Judge again, wouldn't he? He has a lot of experience. It's a round about way and a long winded way of saying I think we've made a great number of strides; and maybe I shouldn't be as critical of Colonel Johnson. You have to get started and so, maybe I'm trying to say that Colonel Johnson should have known everything that we know today, in retrospect, but that's probably asking too much. I do know this though, that, as I look back on it, many, many mistakes were made. I believe that a lot of people could have predicted that if you take old Colonels with no experience in Military Justice, that you're not doing the best job you can picking. But in any event, I think those early mistakes have now vanished and I think we have a fine corps of judges. That's not to say that we don't have some things happen from time to time that I don't like.

In most situations the problems that we have faced in the last few years are ones that we, the managers, made in the first place. For example, the first time I went to Europe as the Chief Judge

was in '76. We had a young judge in Baumholder, who, as it turns out, was doing all sorts of kooky things, like ordering a soldier, as a punishment, not to consume alcoholic beverages for a month or he ordered the soldier to make a public apology before the assembled company. That's a couple of examples. There were several of them, but those are two I can remember. I talked with him and I said, "You know, it's not just that the sentences you render are illegal; if you don't think they're illegal, give me the Manual, we'll open it up and we'll see what kind of punishments are authorized. It's not just that they're illegal, but would you kindly tell me how you're going to enforce the order to the soldier to apologize before the assembled company. What if the company commander won't assemble the company? How will you check to see if the soldier consumes alcohol when you're issuing orders you can't enforce?" And he thought about that. He was just a young exuberant fellow, who thought he had an innovative idea that would be helpful, but we made the mistake. They made the mistake. It wasn't me. I wasn't Chief Judge then. But, we the managers made the mistake.

We took this young guy right out of the judges course here at Charlottesville, sent him to Europe,

sent him to Baumholder all by himself. He was the only judge there. There was nobody to talk to; he did not share an office with another judge, an older judge. He's certainly not going to go and discuss his business with the SJA, and so he dreamed up these innovative ideas. We moved him out of there and moved one of our bachelor judges down to Baumholder, moved this young fellow over to Nuremberg where we already had two other judges, one a Colonel, and he became a darn good judge. When he had these harebrained schemes he went and talked to these other judges, which was perfectly all right, and sought advice. He turned out to be a good judge. He probably never would have made those mistakes if we'd sent him to Nuremberg in the first place where he had somebody to talk to. So ever since that day then we have tried to avoid sending a brand spanking new judge out to some isolated place all by his or herself, which was a good move. At least we learned something from it.

Q: What makes a good judge, sir? What kind of qualities do you look for?

A: Well, I can tell you what I tell the judges course quite often when I speak to them. You should wear glasses because it makes you look studious and you should have a little grey hair as it makes you look

mature, and then you need to have a bad case of hemorrhoids so you can always look concerned. That's what makes a good judge. No, I am only kidding, of course. That's just to try and break the ice and get them started talking to the judges or judges-to-be.

Probably what makes a good judge is the same thing that makes an almost good anything else in the JAG Corps. First of all, you need good competent people; you need to give them a good course of instruction. In our case the Judges' Course probably is the toughest course here at the JAG School, one of the few that is really graded and graded pretty hard. You need to try and keep them current or at least give them the tools to keep themselves current. Of course, you need to pick some people as best you can that have at least some experience in this kind of business, and I think they'll do just fine.

It's nice to have, though, some other things. We've had a little bit of trouble with judges from time to time who are impatient, dictatorial. We had one judge not too long ago who was a good judge, as far as, you know, the rulings that he was making, but he undertook to teach counsel and probably without realizing it. He was much too

vocally critical in open court in front of others of the counsel; both sides, he didn't play favorites. He'd chew the rear end off of both sides from time to time. But it just became an embarrassment to the counsel and that is not a very good way to correct a youngster who makes a mistake. There are lots of different ways to do that that are acceptable; that is not one of them. The public censure and disgrace is usually not the best way to do that. We have some judges who are very good at that, who can say to the youngster when the trial is over, "Say, I noticed on this you did this and you raised this or whatever. Did you think about this? Did you think that would work?" Just the right kind of situation for that to work so that you can let the youngster conclude for himself. It's just a better teaching device. So we had a little trouble occasionally with the judges like that.

Several years ago we had trouble with a judge who was just too suspicious. He thought every single thing that the SJA did was directed toward him, when I know that wasn't the case. I'm satisfied that was not the case. He was just highly sensitive, very, very sensitive, overly sensitive. But for the most part for SJA's, senior

judges, regional defense counsel, the head of TDS, the chief of DAD, the chief of GAD and so on, we've tried to pick our best people and I think they ought to be interchangeable for the most part.

There are some that are not interchangeable. I would never have picked Jack Crouchet, who is a good judge in spite of my criticism about getting there on time, as an SJA.. But he's very good as a judge. And so sometimes people may specialize a little bit and do that more and more. But those little difficulties you learn about when people go through a regular assignment cycle.

One of the things that we do now and have done for some time is to say honestly that we do have a form of tenure for our judges. It's a big thing and I've testified on the Hill about this. Because there are some people that want us to make a judge for five or ten years. I can't run the JAG Corps if you're going to start boxing in my ability to assign people around the world. If I pick you and make you a judge and send you to Europe and somebody tells me you must be one for say, five years, I have absolutely no damn idea whatsoever what I'm going to do with you at the end of three years when your tour is up in Germany. I have absolutely no idea today what I'm going to need

three years from now. That's a problem we don't need. Moreover, I think you would have tenure; you would have tenure just like anybody else has tenure, like an SJA has tenure. When I pick you as a judge and send you to Europe, you go for a regular JAG tour; that's three years, maybe four. If you want it and we agree to it.

And I have not, nor do I believe any of my immediate past predecessors have ever, removed a judge, other than for cause, before the end of the normal tour. Now that may not be true in some of the other services. I've addressed that, for example, at Code Committee meetings. As far as I'm concerned, if you pick a person to be a judge and they're doing some dumb stuff out there, we don't have any choice except to eat it for whatever period of time we're talking about that remains on your tour. There's just no other way. If you start canning people because you don't like the decisions they make, you're going to be criticized and I think properly criticized. And so I just have not done that and don't intend to do that. I only have a couple of months left anyway. But I just think you can't do that. If you do, then Congress will ram something down our throat that we may not like; five or ten year tenure, and that's

going to be bad because if you start specializing too early, then you may not enhance your chances of promotion. So then we have another problem. I think we have to avoid that as best we can, and you just have to make your decision and live with your decision, even if you don't like it later on. You live with it.

Q: Sir, did you enjoy your time as a law officer--as serving as a judge?

A: Oh, yes, I enjoyed it. I think, as I look back on it, I would have to tell you, though, I wouldn't want to do that for the rest of my life. It wasn't that much fun. I wouldn't mind being an SJA for an extended period of time, or if somebody wanted to make me the JAG for the next fifteen or twenty years, I'd say that's not a bad deal either. So, you know, I didn't like it that much, but it was fun at the time to do that sort of thing. I'd never done it before and just the challenge of trying to determine if you believe you are capable of doing something different is enough to get the adrenalin going, to think at least think you're competitive anyway. So, from that point of view, yes, I enjoyed it.

Q: Do you perceive a great interest in the JAG Corps, back then and today, of judge advocates desiring to

be a judge?

A: Oh, I think there are always some that like to do that and there are some that'd like to stay that way. We have some people right now who have been judges for some number of years. Indeed in my planning book I have one page devoted to trial judges and I have another page devoted to appellate judges, and it's just like the JAG roster that you see, except it has additional lines on it with additional information.

In the case of the judges, there's a column that tells me how many years they have served as a judge, so that when I look at, what I shall do with them, I can make a judgment. Being at it a long time, once you get to be a Colonel is one thing--if you're not interested in being a General; being at it too long, though, when you're a Major or a Captain is quite different. You may specialize a little bit too early and people on the promotion board may say, this guy's really done nothing but be a judge and, after all, a judge only has to bobble one ball at the time.

What about the people who have been SJA's and have to bobble a number of them at the same time? How do we know this guy can do that; he's never done it. So I always encouraged the youngsters not

to specialize too early in any field, because I've been asked that about procurement, for example; and I always tell them don't try to specialize in procurement too early. Do some other things. Someone asked me if there was any real need in becoming knowledgeable of military justice these days. And I said, "Sure. If you want to be an SJA, how can you be an SJA and go to see a General and talk about a case if you don't know anything about military justice?" It may not be the biggest piece of work that you have in some places, but it's the bread and butter work of the JAG Corps. And besides that, should we mobilize or go to war, the military justice business will automatically boom. It always has and it always will. Undoubtedly there are lots of military type offenses that will mushroom. Have you ever seen an AWOL case? Desertion case? You hardly ever see one today; some people have never seen one. I can tell you what; if you mobilize you'll see AWOL all over the place, desertion too. So, even if you intend at some later time to try to specialize in procurement, for example, your bread and butter business must be military justice. You at least have to be reasonably decent, because you're not going to get to be an SJA if you aren't, or you're

not going to do well and you're going to hurt your chances in some other way. You're over there doing a great job with claims and procurement, ad law. Hell, the General rarely sees any of that, but he does see you when you talk cases with him.

Q: Sir, we hope we didn't get you off the track too much talking about judges.

A: No, no, anything you want to talk about is fine with me. We'll get around to all of this sooner or later.

Q: Let's see, we were at New Orleans.

A: Yes. I've got a zillion stories about New Orleans. That was an interesting place. John Henry Baumgartner, a very personable outgoing guy, had big-man syndrome. John Henry was about 6'4" and he always talked about people with a little-man complex. Well, the truth of the matter is he had a big-man complex. When I first went down there from Germany, I thought, boy, this is really going to be something. Certainly I've been with people maybe more pleasant in later years, but at the time at least I don't think I've ever met a more pleasant, personable guy. He just couldn't do enough to help us to get settled down and find a place to live. He wouldn't even hear of me coming to the office until we just got settled down and

got the furniture in; just as nice as he could possibly be. I thought, boy, this is going to be great; I've got a great guy here and it's going to be a chance for me to really learn something. Here I am going to be the number two guy with all these Lieutenants out there. So I reported in after a few days, got settled down, and John Henry said, "Well, I'm glad you're here." He said, "We're way behind. A lot of things have just been hanging with the underlap with your predecessor and I wanted you to take time and get settled, but now we got lots of work to do. So what I want you to do is draft me up as quickly as you can an advice in one of the cases that we have pending and a review on one that we've tried. And I want to go over that with you to see what kind of work you do. I want to see if that's compatible with the way that I do things, because we're going to have to work at this as a team and we're going to get this job done and we're going to do it right." And I said, boy, this is going to be all right.

So, I hustled up and got a review and an advice. I don't remember which one was first, but we shared an office. Those offices down there at the port were old buildings that were built by the Engineers in 1916. They were storage houses,

really built to store things for shipment overseas in World War I. Huge buildings, I think, at least five stories tall, maybe seven, and, a couple hundred feet long. I think there were three of them. There were huge, huge concrete pillars in the center, from concrete pillar to concrete pillar was twenty feet. And so we were in an office that was 20x20, except for the portions that were taken up by the piece of the circle on the four corners. They had two desks in there; secretaries were out to the left as we looked forward.

So I got these ready and I went over to show John Henry the first one and he looked at the front cover sheet and said, "Well, that looks good," and he picked it up and looked at something on the inside, and he says, "Fine, fine." He says, "Put that in final." So then I gave him the other one and he barely looked at the front cover sheet and talked a little bit about something or the other and says, "Well, that's great. Good work. Just exactly what I want. Put that in final."

Well, hell, within a week's time I gave him the last page of whatever it was and said "Sign here, Colonel." He signed it. He never saw anything; I ran the damn place completely until he left. He never did anything. He didn't know how

to do anything, except chase the secretary and try to keep his wife from finding out he was spending money on his secretary. And the truth of the matter is I just really didn't learn much at all from John Henry, other than an old adage you've probably heard, "Don't screw the hired help or the hired help will screw you." I did learn that was something not to do. But other than that, I had to run the whole blasted place. I was the SJA down there.

We had a very active business because Camp Leroy Johnson was the collection point for Louisiana, Mississippi and Alabama for all deserters, in addition to the other kinds of stuff, which was fairly small. Almost all of the cases that we talked about earlier involved desertion and AWOL primarily, although they may have done some other stuff. Because, remember now, back in those days when the soldiers committed offenses off post we tried them. We didn't have the problem with jurisdiction and, so, usually when you get the guys in with desertion, the reason you catch him in the first place, they'd been arrested for doing something. Then when the fingerprints go to the NCIP in Washington with the FBI, then the computer says, uh-oh, the soldier is AWOL and we get them.

That lasted, as I recall, about a year and a half or somewhere in between, and John Henry left. He was a Lieutenant Colonel, had been passed over a few times and was forced out at 18 years. And he really did chase his secretary; it was embarrassing. He used to always call her "Buttercup." And I can remember walking down the hall of that big damn building, past the AG or the IG or somebody, and somebody said, "Ooh, Ooh, how's Buttercup today?" God, what a mess.

Anyway, John Henry left and then we had a guy named Johnson, another Johnson, not the law officer Johnson, but another Johnson. This one's name I do remember, his name was Robert Johnson. He was one of the World War II guys that had gone to law school and was a Colonel when he got out and he'd been doing procurement work in the Pentagon for a year or two and they decided to make him an SJA and I inherited him. He was a very, very nice man, had a very nice wife. He was a West Point graduate, incidentally, but he didn't know beans about military justice, absolutely nothing. And he was very frank. He said, "I don't know anything about military justice, and so you're going to have to teach me." Once again, instead of me trying to learn something so I could do things better, in a

sense I'm standing still; I'm trying to teach him. But, as a matter of fact, he taught me too. He was a very inquisitive fellow and he'd say, "Well, what do we do about this?" and I'd say, "Do that," and "Why do that?" "That's the way to do it." "Where does it say that?"--because he wanted to learn, you see. So I'd have to get the Manual and say "It's this paragraph right here." "Okay, good, good." Or I'd say, "The Code--this is the Code right here," or he'd say, "What's the punishment for--" something or the other and I'd say "Six and six," and he'd say, "Where does it say that?" So I'd have to get that paragraph, 127c and find it and say "There it is, right there." The helpful part of all that was that, after going through that for a couple of years, I came here to the graduate course and I probably was as familiar with what the Manual had to say as anybody else, I can assure you, because old Robert Johnson made me show it to him. And, so, as it turned out, I did learn from him after all. And that was a somewhat uneventful tour. It was harmonious. He was inquisitive to pick up something and I was trying to be helpful and primarily run the office anyway as the deputy. It was a time of turmoil for the Army, however, because it was during this time frame there in '57-

'8--'6, somewhere in there, that there was the big Army RIF of World War II, to get rid of people for one reason or another that didn't quite measure up in performance.

By this time we'd also had several reorganizations and in one of those reorganizations, just before Baumgartner left, the Gulf Transportation Terminal Command was the higher headquarters and that had Baumgartner and Buttercup and myself and everybody else. I was the SJA of that command commanded by a Colonel, who was the Port Commander, which was interesting and I had a lot of fun with that. Shortly after Robert Johnson got there we reconsolidated back again, but the guy that had been my Colonel-boss in this other command was RIF'd and he reenlisted as an E-5. One of the guys that had inspected us not too long before was a Major in the IG Section and he ended up as an E-5 Legal Clerk working for me. This guy's inspecting me one day, giving me hell, and the next day he's working for me. And there was this topsy-turvy time in the Army when lots of strange things like that happened, and loyalties were strained. People didn't know exactly what to do.

The impact on the NCO Corps was traumatic because for a period of time all of these old RIF'd

officers were enlisted as E-7's, which was the highest rank we had at the time, all reenlisted as Master Sergeants and to the same extent that Robert Johnson didn't know anything about military justice when he came in as a Colonel, most of these old colonels didn't know what Master Sergeants in the Army were supposed to do either. That was a hell of a time in the Army. We kept shifting stripes around on different sizes, and even in some case, gold and non-gold, and tinkering around with specialist rank. It was a terrible time.

That was the time when Engine Charlie Wilson was the Secretary of Defense and first attempted to impose some of his business standards on DOD and we had ludicrous things happen. Everything had to be accountable and you bought it and had cost accounting like you do in industry. If the order is to build a new Chevrolet, then, of course, you must have an engine and you need four tires and a steering wheel and two front fenders and whatever, and this is all cost accounted. He determined the Army's going to do business this way. So we got all this elaborate bookkeeping system to take care of; getting pencils and pads and things of that nature and I remember we'd only been doing this for a short period of time and one of the secretaries

came to see me and said, "I am unable to get you any more legal pads." I said, "Why not? I've got to have something to write on." She said, "Well, we ran out of money." "What do you mean we ran out of money?" Well, she said (and I have to make up some figures), if you buy 50 legal pads at a time, legal pads cost \$1 apiece. If you buy them less than 10, they cost \$6 apiece. You can see if you go down and get two or three at a time, pretty soon whatever money you had for a large number of legal pads has been dissipated. That was stupid. Where the hell is the money going? Who's got it? If we had money set aside originally for 1000 legal pads at 50 a flip at a time, who the hell's got all the money because we ordered them two or three at a time. It was just a terrible time for the Army.

We had to prepare a forecast to the system and you had to submit all this data as to what you expected to happen statistically during the next year quarter by quarter. And so we did that in the JAG office. We forecasted, for example, how many courts-martial we would have, how many claims, how much money, you know, this and that. I went to this first review after the end of the first quarter, and, again, I'll have to make up some figures, but it was on the order that we had

predicted that we were going to have 100 cases and we only had 90; and this guy said "And JAG, you're only 90% effective." I said, "Hold on, wait just a minute. What do you mean 90?" "Well," he said, "you only tried 90% of what you're supposed to do. You're 90% effective." I said, "Wait a minute. I don't really have any control over who robs banks and goes AWOL and things like that. How can you hold me accountable?" He said, "You're the one that predicted." And I said, "All right. I'll tell you what I'm going to do then. You go ahead and say we're 90% effective this time, but I guarantee you that we're going to be 100% effective next quarter, and you know why? If I see we're running short, we're going to go down and grab some people from your office and we're going to try them by court-martial." He says, "For what?" I said, "I don't care. We'll make up something, just as long as we get a trial." Well, we went through this. Oh, it was a terrible, terrible time when we had that.

This was the same time when we had the guys come back from Korea that had voluntarily decided to go to China at the end of the Korean War. They didn't come home; they had gone over to the Chinese and Engine Charlie said "Discharge them and give

them a dishonorable discharge." And everybody in the world said, "Secretary of Defense, you can only give a dishonorable discharge when sentenced by a general court." Engine Charlie said, "Give them a dishonorable discharge, by God." So we issued them all dishonorable discharges. In later years some of them came back and sued us in Federal District Court, obviously we lost and in some cases we even had to pay back pay for those years, all on account of some guy named Engine Charlie Wilson, who insisted on a dishonorable discharge. So, it was a time of some turmoil for us in those days.

But, as far as the JAG office itself in New Orleans, it was rather pleasant with Colonel Johnson there. We had an interesting group of lawyers. One of the Lieutenants at that time was named Landreaux. Moon Landreaux later was the mayor of New Orleans and the Secretary of HEW under the peanut farmer from Georgia. We had another named Tallagerro. He still is a member of the Louisiana Supreme Court. Another guy was, up until his death a couple of years ago, a very successful lawyer with Texaco.

We had some very talented Reserves at that time; a young Captain named Caskell who's now the second ranking partner of Dutch, Carrigan and

Stiles in New Orleans, a very successful lawyer. So it was a nice time during those days. Lots and lots of stories about Louisiana politics. That's probably not appropriate for this discussion. I'm trying to think now. That's when we had the Supreme Court decision that restricted our off post jurisdiction, O'Callahan, I believe.

Q: O'Callahan?

A: That was in '57?

Q: I don't remember the date.

A: Really? I thought maybe it was down there. Maybe it was after I left there. I remember that was the time of trauma. I said, gee, we'll never be able to survive this, but we did. Well, anyway, that probably covers New Orleans.

Oh, I can tell you one thing that is not exactly in the legal field but it has some degree of historical significance. Fort Bliss, Texas, was named after Lieutenant Colonel Bliss, who died either during or right after the Civil War. They had been trying to find old Colonel Bliss for a long time and some researchers finally found Colonel Bliss's grave on a plantation north of New Orleans during the time that I was there. And the body, or I should say, casket, was exhumed and it was a cast iron casket, and I want you to know they

found a lot of documents that I saw. I don't remember the contents now, but they found through some old Army records how much we had paid for the casket and all kinds of things.

But, anyway, that cast iron casket was in two parts bolted together, with a little rectangle sticking up at one end. It was all washed off and brought to New Orleans and up to the Post and placed in the chapel. Then eventually the plate was taken off of the thing, and there was a very thick piece of glass and Colonel Bliss was right there. You can't really see that well because it's dirty on the inside. The thing was filled up with water through condensation over the years, but the body apparently was still pretty well preserved. You could see there was something there. The first problem we had was to ship it out to Texas so they could use it at Fort Bliss. The first problem we ran into was that there was no death certificate. You got to have a death certificate to ship a body and we couldn't find a death certificate. I got all the available records together and I talked one of our doctors into signing a death certificate. He said, "How can I sign a death certificate of a guy that died back in the 1860's?" And I said, "Well, all you have to do is be satisfied the guy

is dead. When you sign a death certificate, do you ask was it yesterday, two hours ago or anything like that?" and he said, "No." "Well, what difference does it make? If you are satisfied this is Colonel Bliss, and he's dead, that's your decision." So he signed it. Now we have a death certificate and we're ready to ship. But the Health Department people show up and they said, "Hold on just a minute there. That casket is full of liquid and he either died of malaria or yellow fever--" I forget which it was--"What if that should crack during shipment? You'll contaminate--some people will catch malaria or yellow fever."

We contemplated that problem for a while and our solution to that was to drill a hole in the bottom of the casket and drain all the fluid out. And so they did as a matter of fact. They drilled a hole in that casket and drained all the fluid out which I understand from other experts caused COL Bliss to deteriorate in one hell of a hurry. But anyway, they drilled and drained it all out, plugged the hole. So now we were ready to ship and the Health Department people said, "What are you going to do with all that liquid you took out of there?" We said, "We're going to pour it down the drain." And the answer was "Oh, no you don't."

That's contaminated water and it will affect people down river from New Orleans." So the question was: What are we going to do with the liquid from Colonel Bliss's casket?

Well, in those days there was something right next to Mobile called the Theodore Outport and it was from this place that some old gas projectiles and things like that were being taken out into the Gulf of Mexico and sunk, because, of course we'd have a hell of a time with that today. And so we put those containers with the liquid from Colonel Bliss's casket on with some of the gas containers and shells and whatever and they were all sealed in concrete drums and that was sunk out in the Gulf of Mexico someplace. And so if you go out to Fort Bliss, Texas, today, Colonel Bliss is right there.

Q: Sir, I was just curious what advice you give to young folks when they're confronted with a boss like you were that's not real knowledgeable in a special field, such as claims, or it could be justice or anything.

A: Well, you have got to be politic. It's very much like trying to correct a youngster. You don't get very far insulting somebody. Of course, you don't want to insult your boss; and so you have to try to be politic about it. Sometimes that's a very

difficult thing to do. John Henry Baumgartner just didn't care. He wasn't really interested. Colonel Johnson was a dedicated guy and he wanted to do the right thing. He just didn't know how to do it because he had no experience, and so he was a willing subject, he was looking for some advice. Now I suppose, if I had said, "Well, Colonel, you don't know anything, do you?" I would have alienated him. So I certainly didn't do it in that way. I tried to be as respectful as I thought I should be. After all, he's a full Colonel and I'm a Captain. But I also felt like I had to tell it to him like it was or at least like I thought it was and that worked very well.

I have heard people say before that they had been done in because they were honest with their boss. I have not had that problem. Maybe I've just been fortunate and the people that I have worked with have always appreciated being told what the situation is. I think the Chief kind of alluded to some of that the other day, but, you know, people that get to be Generals, generally speaking, are not a bunch of dumb asses. Those commanders got there because they're smart guys and they know what they're doing. I've talked to a lot of JAG's about this from time to time. I've said,

"If you're the G-3 of the Division and the General says 'I want all of my tanks to attack from this direction,' and you go back to see him and you say, 'Hey, boss, I can't map you an attack in that direction. We got 60-ton tanks and all the bridges are 50-ton.'" And I said, "Is he going to get mad with you for telling him you can't do that?" I said, "He's not going to be dumb enough to run a 60-ton tank over a 50-ton bridge. He'll say, 'Well, okay.' He will now perhaps expect you to say 'Well, I can't run it that way, General, but I can do this,' and so we ought not to be any different than that." I've never been afraid to tell a General, "Sir, that's legally a 60-ton problem you've got there and we've only got a 50-ton legal bridge, so you can't just go it that way. You have to do it some other way, we've got to find something else to do or you can't do it at all." Oh, some of them have fussed and fumed a little bit, but I think they always appreciated that.

Sometimes it's a matter of style. I won't name names. I probably shouldn't have named some of the names I have. There's one guy that was an SJA for a General, who was a crusty old fellow himself. He used to call me up and just raise hell and cuss and tell me his damn SJA had been telling

him he couldn't do something again and I'd get him calmed down and I'd call up the SJA and say, "Why in the name of common sense are you going over there again and telling that fellow he can't do something? Why can't you get it through your thick head to go over there and say 'General, you told me you wanted to do this. Now you can do that if you want to, but you might want to take a look at this law right here that says it's a \$10,000 fine or ten years in jail or both, and maybe you ought to think about doing something else.' Why can't you do that?" This guy was just too bull-headed to use any kind of an approach like that. He's going to say "That's illegal. You can't do that," and the old General would just get mad as hell.

Now, admittedly we're talking semantics, aren't we, because we're telling him the same damn thing. But some guys you just treat a little bit more gently than others, and this particular guy just had a thing about somebody telling him that he couldn't do something. "By God, if I want to go to jail, I can do it." Well, he didn't mean that. I think it's a matter of style very often as to whether you are going to alienate people. I don't believe a decent commander, just decent, not even exceptionally good, I don't think even a decent

commander will object to you giving him the facts; and that's what you're doing--giving him the facts. I don't think he'd object to that.

Now, it must be that there's some out there that are so insecure in some way that they don't want to be told that and they get mad about it. I've just never run across them and I've seen some pretty crusty old guys; probably the crustiest was Wild Bill Connally. But I've seen a couple of others that were pretty crusty themselves. General DePugh--I don't know if you've ever heard of General DePugh, but at one time it was said that half of Saigon was populated by people from the 1st Infantry Division that he fired, and he was tough, tough, tough. But, those guys, if they believed that you know what you're doing and you're politic about it to the appropriate degree and tell them this is just another restraint, it's just like the 50-ton bridge with the 60-ton tank, they're going to appreciate you telling them that, I believe, and that's been my experience.

The only other thing I could say is, just talk to some people that would have a different view or work for people that did that sort of thing. I will add to that though. It is helpful in dealing with a situation of that sort to either, one, say,

"General, you really ought not to be doing it this way. The law says you're not supposed to do that. Now you can do this and this may well accomplish what you'd like and you ought to give some thought here." Or, two, "General, I've thought about this and I cannot find any other way to do it. I mean it's not that I just want to tell you you're not supposed to do it this way, I've thought about it to the best of my ability and I just can't find another way. I don't believe there is one." I would never want to just go say no. I would want to say no, but you can do this, or I would say no and I've really thought about it and there just is no other way.

Q: Sir, you indicated that you felt good about coming to the Grad Course after New Orleans. Would you like to address that at this point?

A: Sure. It was a fun time for me. I think you do work pretty hard and that's fine. I mean you're not here to have a total holiday. You're here to become a better JAG officer, to learn a little bit more in the academic vein about some things that you've done before and learn about some things that you haven't done before and to communicate with your class mates. Probably one of the best things you've got going here is to communicate with people

that are your contemporaries, or at least approximately so and today almost always your contemporaries. And to learn. So I just think that's a lot of fun and I certainly had a lot of fun doing that. My class was a little bit different than yours. Do you have any Lieutenant Colonels in your class at all? I mean Army types; I'm not talking about somebody else, you understand.

Q: No, sir.

A: Mostly Majors and Captains.

Q: Just the one allied officer.

A: I was the baby in the class, the youngest officer. I wasn't the only Captain, but I was the youngest; had a Navy Captain, a Marine Lieutenant Colonel, and our class leader was a Lieutenant Colonel, Army type, because in those days the other guys weren't the class leaders, it was the Army type, and he was almost a full Colonel. In fact, he was promoted to Colonel very shortly, right after the advanced class. His name was Buck Rogers. He had been the Chief of the U.S. Army Judiciary, a very distinguished Infantry soldier, who also went to this program and became a lawyer. So we had some older people in the class, which made the class just a little bit different. Probably, in a

certain sense, a little more staid than in your class because of the older people that were there. But it was kind of a fun loving group.

We had some characters there and, as I say, I was the youngest. They used to kid me a lot about that, but that's a lot of fun too and I'm still very close to a number of those people. Buck Rogers lives in Alexandria; I see him every once in a while. One of the Captains there was named Joe Cole from Pensacola; we write occasionally and sometimes call each other up on the telephone. I don't see the others too much any more because we weren't really that close. My wife and I were closest to those two couples than anybody else. It was, again, a time to learn some things.

We had a Marine who used to sit in the back of the room and everytime somebody mentioned the new COMA case, he'd say "Bull shit." For a long time I thought his entire vocabulary must be limited to "bull shit." The instructors at the JAG School were not of the quality that you see today. I had mentioned this down here at the school from time to time.

When General Decker came down here to start the JAG School in Charlottesville in 1951, which had been in existence for only a few classes, he

brought with him his old cronies, his old friends. This was probably the same way they ran the blasted thing when they were out at Ann Arbor, Michigan. The quality of the people that he brought, while perhaps strong on friendship with Colonel Decker, were a bit short otherwise as academicians. We had here just a regular old trade school, just an Army service school. We spent a great deal of time in the basic class, for example, hand writing DF's and things of that sort; just any little ol' thing that they would take some points; really a service school. It was not a law school in any real sense of the word. It wasn't until around '58 the school was given some limited authority to choose some members of the advanced course to stay on as instructors, as opposed to PP&TO just making another assignment. And in those days, when I say that, you have to realize that probably means friendship and the buddy system. And so, that system passed to what you have today; the JAG School today largely is allowed to choose who it wishes. Now I cannot say to the Commandant, "You may have every single one you wish," because out of a class of--what?--How many in your class do you have, Army types?

Q: About sixty, sir.

A: If you've got ten really and truly outstanding people clearly above everybody else, if that happened to be the case, JAG School would take all ten of them and the rest of the Army gets none, so I can't let the JAG School quite do that. But I and at least several predecessors back then allowed the school pretty much to have whom they wanted. Also, in the last several years, when we're going to send somebody from outside the school to the school, we always give the school a chance to say, we really would rather not have this person, or, we want somebody else. So, again, they can't always have everything they want. But that process has allowed the Commandants for sometime now to really be responsible for whether the school is doing good or bad, right or wrong; and, if something goes wrong, it's their fault and they know that.

So they've been selecting good people and the quality, academically and otherwise, of the people who are at the school has just been getting better and better and better. And today this is a law school operation, not a service school, as it was in the beginning. And so that's been an interesting process to observe over the years, how the school has just gotten better and better and better and that's good. Because to the extent that

the school becomes better in the sense that we have better, more competent, more experienced, good people teaching people in the graduate course, teaching people in the basic course and in the short courses, then the better kind of people the school is turning out for me, as an SJA to get. That's why graduate course people for years now have been so sought after. We're all a little lazy in a certain sense and it is nice to have a nice fill of graduate course graduates in your office. It provides you with middle management, first of all, rank-wise, experience-wise, and it just makes your job easier, a lot of fun.

For example, when I was the SJA of Fort Hood, I was the only guy in the whole office that had any military education beyond the basic class at the JAG School, so I had zero in the way of middle management assistance down there. Now this is largely a result of the Vietnam War, for that problem, and the attitude of some of the younger people as well.

Now there are just a large number now of middle management people and graduate course graduates out just about everywhere. I told O'Roark one time when I was down at Fort Hood, "O'Roark, I'm going to go back and annotate your

record and zero out your tour at III Corps as a Corps SJA. You've got so much hired help down here, two Lieutenant Colonels and a hand full of Majors, some people that have been to Leavenworth, several that had been to the Graduate Course. Your job is too easy; you don't get credit."

I was just kidding, of course, but it's just delightful to see that out there and, of course, the school has played a big part in that and I think that's why the school is so dear to the hearts of most of us; it's just a great place. I guess it can get better; I'm not quite sure how it could get any better than it is, because I just think we're riding a plateau right now. We're up there and the school is just going gang busters in every way possible. We've got to keep it up there, so we don't falter, but I don't think that will happen. Certainly it hasn't happened under the past Commandant; it's not going to happen under the one you've got and it's not going to happen under the one you're going to get either. You've got three really terrific guys all in a row there and that is not to say that some of the others weren't.

But some of the Commandants we've had at the JAG School have not been the world's greatest either. There's no sense in rehashing old ills and

that sort, but we've had some guys who were more interested in collecting stamps and other things than they were in running the JAG School. But that's just not been true now for some time. I don't really know who did this [selecting instructors]; maybe it was General Hickman. He was the JAG when I was down here and then when I stayed on right after that, and then General Decker. So it was probably around General Hickman's time. Maybe it was the Commandant who suggested it in the first place. I really don't know, because, I wasn't a part of the hierarchy of the JAG Corps. But somebody got that started back there in about '57, and it's just been the right thing for the school and probably the reason the school is as good as it is, to let the people here at the school primarily do the selecting. I think that's good. Now where does that leave us?

Q: Well, sir, we were talking about your graduate course.

A: Oh, we were at the graduate course.

Q: And you were just making a comment that you felt the instructors were treating it more like a service school.

A: Yes. But that's not true any more. It's not that mickey-mouse type stuff. God Almighty, I think

they used to carry the decimal places out to either four or five positions, something like that, on the grades. It was terrible.

Q: Yes, sir, they did. I noted that the top score in your class was 29.6-something out of 30, I think it was.

A: I don't remember what it was, but I know every day we used to get little things on the board over there and God Almighty, you could get all excited. I never was very good in some of that stuff anyway and I couldn't ever get enthused about it, I'm afraid, like I should have. I'm sure, as I look back on it, I should have done more or tried to do more, I should say. But it's better. I know it's better. I know the instructors are better. We had some instructors here who, I hate to say it, but I think they were just incompetent. Not just bad, incompetent; and certainly some that had no compassion and no sense of humor. You need a sense of humor, I think, in order to survive.

Now there was one fellow down here who was my roommate when I was an instructor and his name was Bob Gates. Bob's a nice guy, but he just didn't have much of a sense of humor sometimes. And we were grading an examination given to a basic class and there was one sheet and it had a very involved

factual situation about some things that had happened with respect to the commission of the offense and the procedure and then the trial itself and the question at the bottom was pretty short. It said, "If you were the law officer at the trial described by the above factual situation, how would you rule on each of the legal issues raised?" And, as you can imagine, we got back some pretty long winded responses and interesting ones. One of the foreign students, in a scrawl that was almost unreadable and you had to look at it, wrote a one liner, "According to UCMJ." And old Bob Gates hit the ceiling. He said, "Look at that! Look at it!" I picked it up and looked at it and I said "Well . . .," and I put "100" and I gave it back to him.

I thought it was funny as hell. What are you going to do? Are you going to give this guy a zip or something like that; you send him back to wherever he was from and they execute him for being incompetent? Now, I wouldn't do that with a US type; he wouldn't get away with that stuff, but the poor ol' foreigner, he barely spoke English, much less understood the UCMJ.

There's no sense in going into a lot of names, I guess, but there are some instructors or people who were instructors back in that time frame, who

are widely remembered still in the JAG Corps by the older people, not because they were good, but because they were not so good. I just don't think there's a single one like that down here. Oh, there must be some place we've made a mistake somewhere in the last some years, but it really isn't apparent. We've really done an excellent job and that's primarily just the school itself, the people at the school, who keep generating some more good work.

I don't know what else to tell you about my graduate course or advanced course as we called it. We just had a lot of fun and I sure partied a lot. I do remember one incident about sense of humor. I used to accuse one of the instructors here--and I really don't remember his name off hand--I used to always accuse him of mixing apples and oranges. He used to get pretty mad about that, that I was attacking his reasoning ability, and this pretty soon became a joke and used by the class. In fact, some people called it "The Apple and Orange Class." And we had a party, which we gave to the faculty--over in the big white house across from the old gymnasium, which was the Faculty Club--and they had a bar in the rear of that place and I got the biggest damn fruit bowl I've ever seen in my life.

I went out to a grocery store and bought as many apples and oranges, an equal number of each, that I could get on that bowl, piled it as high as I could get it, and stuck it up on the bar and put a sign on it with this fellow's name on it. He got so mad he left the party. He walked in; when he finally saw it, he put his drink down and left. No sense of humor. No sense of humor.

Q: Sir, would you like to talk about your assignment here after the career course here at the school at this point?

A: Okay. There really isn't much to talk about. The Commandant at that time was Colonel O'Brien. The Deputy was "The Grey Ghost" and I can't remember his name right now. But, in any event, The Grey Ghost called me in one day and said that they had decided that they would like to have me stay on at the school and be an instructor, which was fine. I had not solicited the job, but it was just sort of another assignment. Fine with me, I certainly liked it here, a delightful place to be. But then the Major, who was the Special Projects guy and Chief of Publications Division died of a heart attack while he was playing golf. And so they decided that since I wasn't going to start actually teaching anything until the beginning of the next

year, that I had plenty of time, so put me in that job and I fiddled around with that dumb thing for six months or something like that, until they got a new guy in.

It was kind of a drag really, because I was up fiddling around with this stuff, trying to edit the Law Review. We didn't call it The Army Lawyer in those days, it was The JAG Chronicle. We got that straightened around and then I went on teaching full time. The Publications Division was headed up by a guy named Colonel Bowen--a little short fellow from Texas. His Deputy was a Lieutenant Colonel named Johnson and they've been close friends all these years. Later on he had what I would call a distinguished career in the JAG Corps; he was JAG in several places, to include Japan at one time many years ago. He had a very young Captain named Wayne Hansen that worked for him over there; that's where I first met Wayne Hansen. When I was in Korea, we used to go over to Japan to visit with the Johnsons and I met Wayne Hansen.

Otherwise, it was pretty much an undistinguished thing. As best I can recall now, the standards, for example, with respect to what was published in the JAG Chronicle, were pretty low. We did have some fairly decent standards

though on the Law Review. What makes me say that is that I do recall that we rejected an article by a professor at, I think, the University of Missouri. And he had written an article on AWOL, of all things. We rejected this article and this caused quite a little bit of stir at the JAG School because the academia got their nose out of joint, civilian academia, and attempted to bring pressure to bear on the Commandant, Colonel O'Brien, and they just did the wrong thing to try to pressure Colonel O'Brien. He wasn't about to be moved in that way; but that all smoothed. I do remember that instance. I believe they had good standards for the Law Review.

The other thing I can recall was a revision of a publication that was called, I believe, The TC/DC Handbook. It was an attempt to update it. Now, mind you, this was '58 or '9, and that booklet had not been updated since the Uniform Code went into effect, and that's how important somebody thought it was all along the line. And I can remember very well the pressure that was put on me to get this thing out in a big hurry and the only way that I could figure to do that was to cut and paste, so that's precisely what I did. Every place that it mentioned Articles of War and things of that

nature, I just cut it out and put in the UCMJ or the current '51 Manual cite and things like that, and it wasn't really revised at all; we just changed the cites to satisfy the requirement.

When I left to go back downstairs to teach, the guy that came into the job was a Major Bill Barrett and we got to be close friends. Bill Barrett spent a couple of years working on that cussed thing; that and also an SJA Handbook. Those were his two things and I believe he worked on that project for at least a couple of years trying to rewrite it. Any number of other people have and I'm not sure that it's been very successful. Interesting how we did that, just strictly a cut and paste job trying to meet the requirement.

Q: Sir, I heard that you wrote an article when you were at the JAG School on rehearings. Did you do that while you were teaching?

A: I'd forgotten about that. No, that was my thesis when I was a student. In those days a thesis was required of each student, Law Review quality, composed of around forty pages. Then General Decker always wanted the LLM award. And so during maybe the 3rd or 4th Class, perhaps, the school began to require that each graduate student write a thesis. The idea behind this was that, if we

ever got the authority--not "if" we ever--when--in those days it was just a question of when we got the authority to award the LLM--that we could go back and give it to those who earlier had graduated, if they had written a thesis. And so that's the reason. The quest to get an LLM awarded by the school was given up a long time ago. I looked into it when I became the JAG, but it's been a lost cause for years. And so, eventually, I don't remember when, the requirement to write the thesis was removed and now I think you've got a choice of doing several things.

Q: What's your view on that, sir? Should writing have a greater role at the school for both students and instructors?

A: I thought several times, as a matter of fact, about going back to the requirement to write a thesis. You know, most of us, unless you get involved with the Law Review while you're in school, don't do any structured writing; we have some exams, but we don't do much in the way of structured writing. I thought it would be a useful exercise. At the time I was here as a student and as an instructor the rules of the Harvard Bluebook were very strictly observed and I thought it was a good exercise. It required a lot of work; get yourself organized and

try to do it correctly, do the research, and I thought I had some pretty darn good advice from some of my friends. I went about it in a very methodical way with the 3x5 cards and I numbered them, and had an outline first to try to key it into my outline, so it really was helpful. And it was fun in a way. I felt good about it when I finally got the damn thing finished.

I had some arguments with my thesis adviser, who incidentally was a Major named Mooney, Bob Mooney, and he was the exception to the rule that everyone on the faculty should be a graduate of the Graduate Course. They were trying to impose that rule, but there weren't enough graduates and they couldn't adhere to the rule absolutely. Today that's virtually a must; almost never would you see that rule violated. But Bob Mooney had not been to the graduate or advanced course, and what was so amusing about it was that the powers that be decided that Mooney would go the following year. So when I found out about that I raised my hand and said, "I want Mooney as my thesis adviser." And so the following year, Bob Mooney was my thesis adviser but, unfortunately, he never completed his thesis. He was a smart guy, had a lot of energy, but he just never could seem to get himself

organized. He was always way, way behind in his planning and the quality of his work wasn't very good. I don't know what his problem was, but some problems were recognized. Anyway, he never finished it and never got credit for that. In fact, I had recommended that he not even graduate, but they did it anyway. Otherwise, the teaching was somewhat unremarkable.

Q: What did you teach, sir?

A: I taught procedure, Article 15 and some substantive law, mostly procedure. Until that time it was strictly a lecture type of a course and that wasn't very appealing to me. So I went out to the ten cent store and bought a little toy pistol, a ring, a watch. I would select someone; and say, "Okay, here's the gun and here's the facts, so you have to get the gun in evidence. Let's get started. I'm the judge." And so I started teaching classes that way, much to the consternation of Colonel O'Brien. He was very much a traditionalist. He came down to watch several times, because he'd told me that he didn't want me to do that. But after he sat in the classroom for awhile he finally agreed to let me continue. I don't know if they still do that anymore or not, but I had a lot of fun with that. There are still some around that remember some of

that. Del O'Roark was one of my students; Fran O'Brien, who is now at the IG's office; they remember that kind of stuff. That was fun to do that. We were in the basement of the old building over there and another one of my classmates, a Jack Chillcoat, stayed on as an instructor as well.

And that's when I started playing golf; that's one thing I do remember about that. I went back to see Jack one day because with this other job I really felt that I was somewhat behind in preparation for classes and so I'd been going at it pretty strong for a few weeks and it was getting on toward the Springtime. I went down to see Jack one day and said, "Jack, I've just got to get out of this damn building. I'm just getting claustrophobia sitting down here all the time with all these damn books. I've just got to get out and do something." Jack said, "Well, let's go play golf." "I don't know how to play golf, Jack." He said, "Well, I'll teach you." I tell you that story because, as it turned out, Jack Chillcoat didn't know how to play golf either. All he did was show me some very bad habits that I've been trying for years to get rid of.

I really can't think of anything that was really remarkable about the teaching. I think

there was an effort to try to correct some of the things that my class had complained about and the class before that had complained about. There's always a tug of war--still is today--as to what number of hours should be devoted to what area, and in those days International Law was very, very heavily weighted and most people felt that it was interesting, but, as I have mentioned, our bread and butter is Military Justice. And so beginning with the time that I started instructing, the number of hours were reversed; International Affairs was decreased and Military Justice was increased and, of course, this had not been planned for very well. That meant that those of us who were already there just had to teach more things and so it made the burden a little heavy there for awhile. Of course, you know as far as instruction is concerned, once you do your basic research and get everything done, then it's not so hard to field questions. It makes it a lot easier that way after you got it done the first time. It was fun.

An awful lot of foreign students in those days posed some special problems for us. I think I mentioned to you about the fellow I gave 100 to on the exam. Well, you had to be very careful because when I was here in the graduate course/advanced

course, a Chinese student, Taiwan, had not done well in class and this fact had been reported and he was told to return to Taiwan. He stopped somewhere out in San Francisco and shot himself, and this made everyone around sensitive to not being too hard on those fellows and trying to impose the same standards on them as we did on ourselves.

Q: Sir you have a Criminal Justice background additionally though you had orders to go to the Language School and serve as an International Affairs Officer in Korea. What type of input did you have in that decision?

A: Well, remember, I told you when I became the Assistant JAG, I called in everybody in PP&TO, the Exec, and told them about my assignment to Europe. I told you that was one of the things I told them about. One of the other things I told them about was how I got assigned to Korea.

Q: '62 to '64 you were in Korea.

A: Okay. Well, I went to Language School.

Q: Yes, sir.

A: At the JAG Conference of '60 I talked to the people from PP&TO and, you know, and they said, we're going to leave you another year, that will mean three years and then we're going to send you to

Leavenworth, CGSC. Great! Well, I'd built a house, as a matter of fact. When I was in school, I rented a house and when they told me I was going to stay on I went out and built a house. I've forgotten why now, but it was something to do with the way the walls were finished. They were all white except in the kitchen and you're supposed to wait a year to paint them. And then the guy said, "You're going to be there until, through '61." So I started out and painted all the bedrooms.

My wife and I did that ourselves and I believe I still had a wet paint brush in my hand when the guy from PP&TO called up and said, "We're going to restart the negotiations for the SOFA for Korea. How would you like to go to language school and go over there?" And I said, "Wait a minute. You told me I was going to stay down here at the school. I just painted my house and everything." "Well," he said, "Somebody's got to go, I've got two others, as a matter of fact, to call." I said, "Well, call them." So a day or two later the PP&TO called back and said, "Your orders for Korea will be published in the next few days." And I said, "What about the other two guys?" He said, "They didn't want to go either and they outrank you." No, nothing about, Clausen, you're a much better lawyer than the other

two guys. You're available and they are not. Simply they outranked me and so that's the way the personnel decision was made. So that's one of the other things I told the PP&TO guys, if you ever make a decision on that basis, I'll fire you in a heart beat, you're going and just pack your bags and leave. When we make personnel decisions around here, we better make them on some kind of a reasonable rational basis. That's what we're getting paid to do, not be some damn bureaucrat where you don't have to use your head.

Q: Did you find the language school prepared you for your job in Korea?

A: Not really. On the Romance languages, such as German, French, Italian, you spend six months at the language school and you can speak that pretty well in six months. Korean, Chinese, Tai--that's a year's course and if you really want to get to do it well, there's an 18-month course that follows that. Sometimes they just give six months and the 18-month course, so you go 18 instead of the year and then 18. So it's not an easy language. To master the language itself is easy, the Korean language is easy, but your problem is the Chinese characters, of which there are some in excess of 50,000, nobody really knows, and a really well

educated person may know as many as 5,000, but most really educated people only know 2500.

The objective at the language school within that year's time was to get you to the point where you could, if not write 250, you could at least recognize them. You can't read the front page of the newspaper in Korea if you only know 250 Chinese characters. As you go from the front page toward the rear the relationship between Chinese characters and the Korean language changes. Toward the rear of the paper there's more Hondo than Korean, which is quite simple, so that the common people can read that paper. But you can't read the front page of the paper, and obviously to try to read any kind of technical documents with respect to the law or even a description of military items is just an impossibility with that brief amount of training. So you still have to rely on somebody else to help you, people that have spoken the language and written that stuff for years. The whole theory was that we were going to get somebody who had round eyes and who could be trusted.

I was going to go over there on the regular 13-month tour unaccompanied, and the language school served me well because I had only been there a couple of weeks and the SJA was Colonel Wally

Solf, the same Lieutenant Colonel that asked me the question at Heidelberg years ago, and he was trying as hard as he could to learn Korea himself. But when you learn Korean over there the way they teach it, you learn to speak certain phrases by rote; you read on the paper that says "Good morning," so you learn how to say "Good morning," or if you say, "How are you?" and so you learn how to say "How are you?" What you don't know is you have no knowledge of the grammar. You can't take words and put them together because you don't know how to do that. All you can do is memorize phrases. And that's what Wally Solf was doing.

So he just was intrigued by the idea that, to him at least, I was just bi-lingual. Well, the truth of the matter is, that was not correct. The language school itself would tell you that when you left after a year you had a college level understanding of grammar and grade school vocabulary, and their theory was early into the fray in Korea, you'll pick up the vocabulary quickly. The language school was oriented toward being translator for military intelligence purposes; the real reason, of course, it was taught. Those were the techniques taught at the school and that's why I didn't pay much attention

to vocabulary. I'd only been there a short time and there was some sort of big Korean/American party and Wally Solf took me along and since I could "speak" Korean, and I just happened to get hooked up in a group with Solf and a Brigadier General named G. G. O'Connell, who was the Deputy Chief of Staff, and a couple of Korean guys. And so Wally Solf, a very exuberant type, tells me to say something in Korean. I said a little something to the Korean General and he said, "Well, ask him about . . ." something about a damn tank. My vocabulary didn't include all those technical terms and so it was necessary then for me to have an extended conversation in Korean with the Korean General; primarily saying "Would you speak more slowly, General?" "What does that word mean?" In simple terms, I had learned how to be able to ask questions so you can learn the words. We just had a very animated conversation and G. G. O'Connell was very much impressed by this. Here we have an American who's a lawyer and speaks Korean, exactly what we need. A few days later I was invited over to see General Meloy, Commander in Chief, and General Meloy had been pumped up now by G. G. O'Connell and Wally Solf, and he said, "Do you really speak the language that well?" I said,

"General, I must level with you," and I told him about the college level grammar/grade school vocabulary. He thought about that for a minute and he said, "Well, hell we're not going to get that much use out of you; if it takes you six months to pick up a good vocabulary, you'll be almost on the downhill side of going home." I said, "That's right." He said, "How about staying two years?" I said, "I really wouldn't like to do that, General. I have a wife and two babies." He said, "Bring them over." I said, "You got a deal." So General Meloy instructed his staff that my family was to be brought over to Korea.

Things are much different today than they were then. It's not just that we now have a Status of Forces and in those days we did not. The Foreign Assistance Act in those days rather clearly delineated the kinds of money that could be used for certain things; and basically there were two kinds of money used in Korea. There was USAM and KMAG, USAM being an arm of the State Department and KMAG being the people who had a relationship with the Koreans, to train them. That kind of money could be used for housing, schools, commissaries and the like, and people assigned to those tasks could use them. The other money was basically used

by 8th Army and UN Command and, with only a few exceptions, like the Commander-in-Chief's house, for example, there was no money to build quarters for those people.

There were at that time, I think, five non-KMAG authorized dependents in Korea, the CINC being one of them, and then there were four other Generals and they got housing because they were given an additional duty, for example, some job at KMAG with an additional duty as DCSPER of 8th Army, which was a subterfuge to get them quarters. So the question then became, "What the hell are we to do with Clausen?" CINC says, "Give him a house." "How are we to do that?" So the Army rented a house from USAM, from the State Department, for me. So I didn't live over there with all the Army guys on the KMAG side of Yongsan; I lived on the south part of it with the State Department in a house owned by the State Department and the USAM people.

Everything was unusual. For example, if you were authorized to have your dependents there, regardless of what status you had, you went through the Korean Foreign Ministry and they would give you a license tag for your car. Most all the people had green with white lettering, except for the people with diplomatic privilege, they had blue.

They also got to import their stuff tax free. They went through the tax office at Pusan or Inchon and would get a tax free certificate for household goods, car, and whatever. Well, I couldn't do that; I wasn't a part of any of these groups. So my car came through Inchon and they just shrugged their shoulders and I got in the car and drove it off, no tax free certificate, no nothing.

I couldn't have a tag because I'm not a part of KMAG. So I had to design my own license plate and that was funny because I got the Engineers and we designed one. I remembered being in Germany and our tags over there said "U.S. Forces-Germany." I said, well, why not U.S. Forces-Korea. So we fashioned a license tag. The only paint that was available at the time was orange and black, so it turned out to be orange and black, and I said, "Well, make it U.S. Forces-Korea-1." Well, G.G. O'Connell got wind of that and he said, "You can't have the number one; only the CINC gets number one." And I said, "Well, that's not the CINC's." He said, "Don't give me that." So I ended up with I think it was a bunch of 9's or something; they wouldn't even let me have 1's.

Anyway, I got a license tag, orange and black; and it seemed like everyday when I would go from

South Post to North Post, because that's where the JAG Office was, there always seemed to be a new MP on the gate. "Sir, what is that?" "Well, that's my license plate." "I have never seen one like that, sir." "You won't. That's the only one in Korea." They didn't know what to do about it, so I got stopped all the time. I wanted a driver's license for my wife; she couldn't get a Korean driver's license. The solution was I took her down to the motor pool and she drove a jeep, a three-quarter ton truck and a deuce and a half, just like soldiers do, and got a GI driver's license and so her driver's license in Korea was a GI driver's license.

And, oh, the difficulties were enormous. They would not issue me a commissary card and I finally talked to the DCSPER, who was an Air Force guy named George Thayer Talbert and he said, "You're crazy. You're not part of KMAG, you don't get one." And I said, "Well, Colonel, I guess I'll have to see the CINC then. The CINC told me he's going to bring my family over here and I was going to get commissary, PX and everything." And so I had to go see General Meloy; and, of course, that took some days to get in to see him, but I finally got in to see him and he just picked up his phone,

got his Chief of Staff in there and said, "Tell that dumb ass down there to give them a card."

I had the same problem getting my children into school, but I finally got them into school and got the commissary, got PX card. Everything was a problem, but once we got it done we had it all.

In any event, it did get my wife and children there and we did get settled in and in addition to doing some work on the Status of Forces, I did not really go to the meetings very often with Wally Solf. Another guy went with him named Bob Miller. I spent most of my time going down to the various Korean courts and helping in the translation of various laws and the new constitution that they had enacted, because there were several changes of government there, and I observed a lot of trials that were of interest to the State Department. That was my contribution to working on the SOFA. I did work on it, although Wally Solf gives me a lot more credit than I really deserved.

You don't know much about Korea, do you? The Japanese invaded Korea and subjugated the people, before the turn of the century, as I recall. And they were fairly ruthless with them. If you wanted to be even the mid-range level bureaucrat, certainly if you wished to be an officer, for

example, you had to speak Japanese and go to school in Japan, because they sent only people they selected. There is still much anti-Japanese feelings the Koreans have today, but certainly then. The guy that took over in 1946 was a guy named Syngman Rhee. It was a dictatorial rule. He was overthrown in '61 or '2 by a fellow named Chung Mung, who was basically a front man for some other people, and he was more of an academician than he was a politician. Chung Mung didn't last very long and Park Chung Hee, the General, ousted Chung Mung by simply moving the Army on Seoul; instead of having the guns pointed north, he pointed them south. So Park Chung Hee ousted Chung Mung. Of course, he lasted until he was shot here a couple of years ago.

Chung Mung was tried under martial law -- which existed for a long period of time over there. Chung Mung was tried by a military court for crimes against the government and I went to that trial and observed that. They tried Kim De Jung, a fellow you probably read about here recently. I knew Kim De Jung in those days. I went to his trial. They were very prone to try people who would speak out against Park Chung Hee, that was labeled subversion and all kinds of things of an unpatriotic nature.

They enacted a bunch of laws that in general criminalized being an obstructionist and that sort of thing. We were very interested in the trials and how they were conducted because, of course, here we are negotiating the Status of Forces Agreement and part of that is going to provide for jurisdiction over our soldiers much the same as you find in Germany in the NATO SOFA.

And that, of course, is why you'll find the Korean SOFA provision that if martial law is declared, the jurisdiction over our soldiers ceases and we have primary jurisdiction exclusively. That's the very reason for that, because they had all those trials back in those days. Some very interesting trials; I can't begin to remember all of them, but one I remember that is, I think, of interest.

During the early days of the Korean War there was a Korean Division Commander named Song, Tiger Song. I don't know what his real name is but everybody called him Tiger, Tiger Song. And, of course, the North Koreans were just pushing everybody down, down, down, and there were desertions. Tiger Song had a number of Korean soldiers shot on the spot for desertion in the face of the enemy. In later years, during this time

frame now, Tiger Song was long since retired and he's dabbling in politics. He was a pretty popular fellow; he was a real legitimate wartime hero and popular with the Korean people. And so Park Chung Hee and some of the civilians thought we'd better put the quietus on Tiger Song. So Tiger Song was brought before a military court-martial, charged, among other things, with making unpatriotic statements, but also charged with the murder of these soldiers back in 1950. And this is the sword they're going to hang over Tiger Song.

The way they did most of this stuff is they'd bring them before the court and hang a heavy sentence on them and then, if they promised good behavior, they would suspend sentence. But they got the sword there so if you spoke out again, then you'd go to jail.

I had been going to this trial for a couple of days and I received word that the Ambassador wanted to see me. I went downtown to see the Ambassador and the Ambassador asked me about the trial. He said he'd been reading the trial reports which I turned in every day. I didn't know the Ambassador saw those; I thought they were going for internal use. He said "Have you ever read the volume of the official U. S. Army History about the Korean War?"

The title of this is "South to the Han, North to the Yalu," I believe, and that discusses the original push down and the push all the way back up to the Yalu. And I said, "No, I haven't." He said, "Well, when you go back out to Yongson," he said, "get it and turn to page--" whatever, he gave me the page number. He said there were some paragraphs there that related to the incident for which Song was being tried. He said, "Do you think you could pass that information to the defense?" I said, "Sure. One of the defense counsel is a civilian attorney that works part-time in the office. It's easy."

I went back and I got the thing and I read couple of pages that he was talking about. And basically the official U.S. Army History, in describing these incidents, said that it was the Corps Commander who issued to the order to the Division Commanders to do this, and it gave the name of the Corps Commander. The Corps Commander is now retired from the Army, wears a civilian suit and he works in the blue house, Park Chung Hee. And so I got Mr. Kim, the lawyer that worked out there.

The way they tried those cases was different. Tiger Song must have had eight or ten lawyers

sitting at a big long table; that's just the way they did it. I passed this to Mr. Kim and, oh, there was a big flurry of activity. The guys were jabbering among themselves all over the damn place and they spent all night copying that damn thing, translating it into Korean by hand. And the next day they offered it in evidence. To my surprise, it was accepted; and then, of course, this caused a lot of jabbering among the court members and they recessed the court. And a couple of hours later the court opened and the president of the court announced that the charges of murder against Tiger Song had been dismissed and they went on then to try Tiger Song for some of this other piddling stuff and put him in house arrest or some such thing.

It was rather interesting that the official U. S. Army History got a guy acquitted, if you will, of some murder charges. I did a lot of those things and we did work on the Status of Forces Agreement. The number two guy in the State Department, in the Embassy, at that time was later the Ambassador in Vietnam, worked in Paris with the Peace Corps and then ultimately retired. Then he was recalled to active duty, so to speak, by the State Department at the President's request, to be

his representative for the Mid-East Peace Talks. I can't think of his name, but he and Wally Solf were good friends, very close friends. He was willing to listen to the military's statement of needs and requirements with a receptive ear and, in my view, is one of the reasons that I think the Koreans SOFA is probably the best one we've got anywhere. They had a lot of experience to draw on, with some mistakes made in other places, but this guy was willing to listen and try to be reasonable about things. I think he ought to get certainly a lot of credit, if not the lion's share of credit. Wally Solf worked very hard on that Korean SOFA.

Q: Was it completed while you were there, sir?

A: It was actually completed, but it wasn't signed. Of course, the reason it wasn't signed is they extended martial law again, so politically that made it unwise to do that. So, that's my tale of learning the Korean language and the advantages it got for me in Korea.

I had an excellent time over there, had a full time maid and a house boy. They cost me about \$20 a month for both of them, US money. And then when they devalued the yen it went down to \$10 a month for both of them, and, of course, everybody wanted a pay raise so I finally agreed to raise their pay

50%, so then it cost me \$15 a month. So it was a nice time. We had a lot of fun over there. There was a nice old golf course there in Seoul; nine holes then and it is now eighteen, and so I got to play some golf; had a lot of Korean friends. I still have Korean friends there and every time I go to Korea I always see my old friends over there that I made during those days; lawyers who are now either still practicing law or they're politicians, one thing or another. I made some really lasting friends over there, military, but also Korean. A lot of fun, a lot of fun.

Q: Sir, was there anything unique about AR 635-105, show cause for retention hearings, that you may have been involved in with officers as to substandard performance issues? Do you recall anything about that?

A: I guess you got something out of my files somewhere on that. I did represent a guy who was a drunk. I don't remember his name--did you get his name?

Q: I have a Major McMann.

A: Even that doesn't ring a bell but that must be it if you found it in the file. Yes, it was sort of a routine thing. They needed somebody to be the guy's defense counsel and so I'm trying to do the best I can. This guy would show up drunk often or

wouldn't show up at all. In fact, the day we had the show cause board, despite all of the instructions I had given him, he showed up drunk as a skunk at the board, which didn't help his case worth a damn, and, of course, the board found against him.

What's interesting about it, though, is this guy claimed that he had a medical problem, that he had these headaches that caused him to really act this way; it wasn't just drinking even though he said he might take a couple of drinks somewhere and "I'm not really drunk, it's just--." There was some medical evidence of that, which I put in, but it was very slim and when a guy's just dead drunk at a show cause hearing nobody will listen to you.

As it turned out, a year or two ago I was walking along the hall one day in the Pentagon and met a fellow that is on the ABCMR--he used to work in our office--Jack Matthews--and he said, "Hey," he said, "I saw your name again the other day, did you know you won a case?" I said "Won a case? What case?" It was this case. This fellow died and his wife had been trying for years to clear his name and she finally got her case before the ABCMR with a lot of medical testimony that came from the autopsy when he died. And they finally concluded

that indeed he did have a brain tumor and the doctors concluded that this was probably in large part responsible for his pain. And so I won a board action what? Twenty? Thirty years later; didn't even know it.

Q: Sir, you returned to the--I guess it was then, at that time, not the long course at C&GSC at Fort Leavenworth. I think that had prompted some communications from you while you were in Korea.

A: That is correct. That's something else I talked to the PP&TO about, because in early '64 I had not heard anything and so I wrote PP&TO and said, "Where are my orders to go to Leavenworth?" and I got back another bureaucratic letter which said, "You're older, you're too old, now to go and so you can't go." I said, "Make an exception." I got back a hotly worded letter from a Lieutenant Colonel named George Prugh, who was then the PP&TO, and made it clear in no uncertain terms that most officers didn't ask for exceptions. So I tried to point out to him; you said you were going to send me to Leavenworth out of the JAG School; instead you decided you wanted to send me to the Language School and Korea; I got to Korea and they wanted to extend me and all I've done is what the Army's told me to do and so go get an exception.

The truth of the matter is you can get an exception to anything. As a matter of fact, the plain truth of the matter is I make them. You don't even have to go anywhere. I can decide who's going to do that and I do it all the time. But, anyway, I was pretty mad about it and, in fact, I called them up there one day and I said, "If that's the way you guys do business, just screw all of you. I'm going to quit." And, in fact, I think I may have even wrote a letter with something to that effect. I got a telephone call from Bruce Coggins, who had replaced Prugh, and Bruce said, "Well," he said, "don't be too hasty about all this." He said, "Let me see what I can do. I don't know about the long course, but how you'd like to be assigned as the Judge Advocate of the Disciplinary Barracks?" I said, "I don't know. Why should I want to do that?" He said, "I can get you quarters on post for one thing and I can send you to the short course." He said, "What difference will it make? You'll get credit for going to Leavenworth anyway?" I said, "Okay, I'll give it a try."

So that's exactly what we did. I was assigned to the Disciplinary Barracks as the Judge Advocate and I was going to the short course on TDY, if you will, but I was living in quarters that were

available through the Disciplinary Barracks. That took me about another year and then Bob Dillion, the same guy who'd been in Korea, was on the faculty and he was leaving and so they selected me to be his replacement. So I just moved across the street, if you will, and went to CGSC and taught on the faculty there.

Q: Sir, did you have some tasks associated with the electric chair or any issues associated with the death penalty while you were there?

A: How did you find out about that? Did I write something on that? Yes, we had a prisoner who was on death row at that time and there was certainly a possibility that he would have to be executed. The last executions out there took place in '61 and there were two or three prisoners electrocuted on the same day in the Kansas State Penitentiary, which was just down the road from Fort Leavenworth.

Electrocution was the method of execution in the regulations. It says to execute in accordance with the law where the installation is located. It caused such a turmoil when the lights dimmed two or three times out there, the neighbors got restless and the Governor of Kansas decreed that never again would they execute anybody for the Army. So the Army went out and bought its own electric chair.

It had been sitting unused in one of the sub-basements in the Disciplinary Barracks for those years.

Now we're up to '65. There also was a place out in the steam generator plant for hanging people. Just for information, there is an Army Regulation that tells you how to tie the knots and all that and how you figure out how long it has to be because of body weight and things like that. And so the Commandant, who was a good close friend and a golf buddy, asked me to inspect the place where they had the hangman's noose and the electric chair to see if they were in working condition. And so I did; I went down and inspected the electric chair.

It's a funny looking thing; you've probably seen pictures of it in the movies. It looks like an old, old wooden chair, you know, very straight and it has leather straps to hold your arms down and leather straps to hold your legs on so on. And, just like in the movies, a little skull cap, electrodes and wires. Just like you see in the movies, except it's just been sitting there in disuse for those years and the leather was completely dry rotted, just almost useless. You could pick it up and crumble it, sitting there.

But it was workable.

We did turn the juice on, not full force, but just enough to see if it would work. Then I went out to the generator plant and looked at the hangman's noose. They had removed a section of the steel grating at the ground floor level of the steam generator plant and one floor beneath in the basement there's a casket. There's a wooden beam that had been installed and there's a thing that looks like a meat hook and there's rope attached to it, just standing there. But, unfortunately, some of the windowpanes had been broken in the top and the pigeons had defecated on everything. It was terrible.

When I told the Commandant this he just became enraged that they would allow this to happen, that no one had paid any attention to it. So they repaired the glass panes and cleaned the place up and that kind of thing. We decided that we wouldn't order any repairs on the electric chair until it was very certain that a guy was to be executed. I assume that the electric chair is still sitting out there in a state of disrepair and they probably still have the casket sitting down there on the basement floor underneath the hangman's noose awaiting some use in the future.

Q: Sir, what issues were facing the Army when you were an instructor?

A: Out at Leavenworth? Well, of course, Vietnam was just getting started. This was '65, '66 and we had a few people there. So Vietnam was heating up and indeed I was commissioned to put together some materials to give a short bit of instruction to the classes on the history behind it, which I did. As I look back on it, it was not all that well done, I don't believe, knowing what I know now. But from the materials that we had available, I guess at the time maybe it wasn't all that bad.

We knew very little about Vietnam. Even in '68, when I left Leavenworth to go to Vietnam, I couldn't even find Lai Khe on the maps that we had available; it's a rubber plantation and it wasn't even on the map. There were just very few materials available. Documents were extremely difficult to get and so when I was going to go to Vietnam, I did some research and had gotten as much information as I could to put together this little instruction covering the history on the time of our involvement in Vietnam for the students. I sent that up here to the school and I think the first time it was offered was in '67, I believe, and it was the SJA Course, as we know it today, but it was

renamed as the Law in Vietnam Course or something like that. Anyway it was the SJA Course for people going to Vietnam and they did a lot more work up here and, I think, were able to go to DC and get some things.

They put together, I thought, a pretty good package. In fact, I came to the course myself in '68 before I went to Vietnam. That was a big issue.

There were others though. The Berlin Airlift was not all that far away nor was the Cuban missile crisis and we did have experienced instructors at Leavenworth. I was in Department of Command, there was one called Department of Division Operations, and a Department of Larger Unit Operations, Corps and above, and then one called Joint and Combined Operations, I believe. That's where all the snake eaters were located. You had the Special Forces instruction in that and it was a constant battle with those guys to review their lesson plans for them and tell them, "You cannot be teaching our officers to assassinate Banana Republic Dictators," because they always seemed to have some of that in the instruction. And you'd tell them and they'd say, "Okay, you mean to tell me that if it's a case of the whole United States

is going to collapse unless we assassinate some dictator, we can't do it?" I said, "Don't give me some factual situation like that. You won't be faced with that." I remember that very clearly. It was a constant battle with those guys.

Q: Were you required to review their lesson plans, sir, from the other departments?

A: It was just like doing staff work in the Pentagon. If it involves some other department or division, you're supposed to coordinate with them, and so if they were discussing something that's legal it was supposed to be coordinated with me, so I could review the important part of it. They never wanted to do that and it was difficult to get their material sometimes. That was a fun time, too.

Leavenworth was just beautiful and we moved into quarters the day we arrived at Fort Leavenworth. We stayed there for four years. In fact, my wife liked it so much there that I rented an apartment for her in downtown Leavenworth and she and the children stayed there the year I was in Vietnam.

The lessons were taught differently then than today. Today the JAG students are used as instructors to teach the legal stuff. In my day I used non-lawyers to assist me in the instruction.

They would not allow me to use the JAG. I kept trying and trying and trying and I was never successful. I don't remember now who followed me and was successful in the area that I was not. I tried very hard to get them to let me use the JAG's; they wouldn't do it, so I circumvented it. By that I mean I had, I think, about eight or nine instructors that were assigned to me to teach the things that I was responsible for and that included Chaplains. So, I would arrange the classes in such a way, as far as the students were concerned, that I would have one JAG in the class that was going to have a non-JAG instructor. And, indeed, I even moved the block of instruction around because you don't stay in the same section ever at Leavenworth; you move, at least you used to, and so I didn't have enough JAG's to go around. I would delay that block of instruction. I would usually have to work it out so that I could move the JAG and get him in there so that when the class arrived, I'd get all the JAG's over to the house for a cocktail party and I'd say, "Okay, now look, guys. I don't want anybody here shooting down my non-lawyer instructors. If they get off base, instead of you making an ass out of them, I want you to just ask some friendly questions and kind of get them

oriented back in the right place in a very gentle way and I don't want to embarrass anybody."

They were very good about that. And then I told the instructors, "Now, you got a lawyer out there, so if you're looking for somebody to discuss something, and you want to use that technique sometime, you let me know and I'll tell him the areas in which you want to use him for that purpose and he'll get prepared." I'd fix it so he'd say, "Well, now, Major, what do you think about that?" And the old JAG would pop up and actually he's teaching the class. I circumvented the place out there. It worked pretty well.

General Hodson, who was the JAG at that time, was appalled when I came to the JAG Conference one year. He asked me how many hours I was teaching, and I gave him the number of hours I taught out there. He asked "How do you do that?" I said, "Well, I've got eight or nine guys helping me." "JAG's?" "No, sir, not JAG's." "You got non-lawyers teaching law?" Well, the truth of the matter is it worked out pretty well actually. I'm sure it works better now, but it worked okay, and we got the ideas across that we were trying to get across, I think, and so it wasn't bad.

Q: What was the relationship between Disciplinary

Barracks JA, the instructor at the school, and the Post JAG Shop?

A: During the time that I was there, there was no relationship at all, officially. The Post JA was one office; the Disciplinary Barracks was a separate GCM jurisdiction that was a 5th Army unit. The Disciplinary Barracks does not belong to the Post; it belonged to 5th Army. That's why if you're in my office sometime, you'll see the picture frames that I have on the wall with the patches that I've worn, you'll see a 5th Army patch and that's why I wore that when I was at the Disciplinary Barracks. So we did our own thing over there. We didn't have enough people to do all that was done and I used to borrow people from the Post. To try a case we just didn't have enough so we had to borrow from the Post to do that. But there were very few trials of prisoners. We took care of prisoners in administrative ways, just as effective. Very rarely did a prisoner get tried.

Q: Did you have rehearings at that time, a lot of rehearings?

A: Oh, gosh, yes, but not a whole lot. But we did have a few. We did not have DuBay stuff. And then, of course, the instructor over at Leavenworth at the College was a separate office, as well, so

there was no official relationship between the offices in those days.

Q: Sir, I noted at some place that General Davison was very pleased about something you had done with lesson plans at the school; in fact, he sent you a letter to that effect when you were in Vietnam. Do you recall what the improvement was that you made?

A: No, I don't, as a matter of fact. Old Big Mike sent me a letter, huh? I don't remember what; I did something but I don't have any idea what it was. Must have pleased Big Mike, I guess.

Q: Well, I 'm not sure if he wanted to play golf more than command you.

A: Well, I used to play golf with him, too, he's a nice guy. He lives in some housing development right across the road from the Army-Navy country club. He's very close to the Pentagon and I see him every once in a while at a party. He's still around and in good health.

Q: Sir, I was curious about the amount of time you spent as an instructor. I know that you taught some night school when you were in Korea, and also the time here at the school and at Leavenworth? Were you concerned about that?

A: No. I'll be perfectly honest with you. I think in many ways, at least in my own case, I wasn't really

smart enough to think that far ahead about that sort of thing. Most of us didn't in those days think about the future as much as young people do today.

One of the reasons for that is when I was a young JAG officer, I never saw the General or PP&T. They never came around anywhere and talked to anybody to tell you what's going on. I had absolutely no idea of what the promotion picture really looked like. It was mostly just rumor and things you could glean for yourself and you'd see promotion zones over a period of time and figure out it will take me another couple of years to get to be whatever it was. I just don't think I ever thought about that sort of thing, to be perfectly honest with you. I can tell you very honestly I never gave a single thought about being a General at all until I went to Fort Hood and the only reason I thought about it then is because Larry Williams kept telling me I ought to be a General. That might not be a bad idea. But anyway I just never thought about those things. I just did the things that they told me to go do. The only assignment I ever asked for really was the one to the 1st Infantry Division. I did assign myself to III Corps when I was the Exec. But other than

that, I never asked for any assignment. I just went where they told me to go.

Q: Do you think there's a preoccupation with this, worrying about one's career today?

A: I don't know that it's that prevalent. There are some people, I think, that are preoccupied with that and I have talked to some people for example, who have pretty much planned out when they're going to get promoted to Major, when they're going to be in the graduate course, when they're going to go to Europe, when they come back from there they're going to go to the Pentagon, and by this time they'll be Lieutenant Colonel. There are some people like that, but I don't really think it's prevalent.

I think it is good that young people think about it some though today, in fact, I preach it. If you ever hear my pitch, I always say "Help PP&TO manage your career. Tell them where you want to go and what you want to do, if we can do that, you should be happy. If you're happy, you ought to be more productive than you are when you're unhappy. So good management dictates that you try to keep your work force happy. It's good management. Now sometimes you can't do that because, if you ask for several repetitive assignments at an early age in

the Procurement field, I won't give them to you. It might make you unhappy, but I still wouldn't give them to you because that's too early to specialize. But, other than that, we try to do that and I think you ought to know something about the JAG Corps.

That's one of the reasons that ever since I was the Assistant JAG, I tried to travel about and tell people what the promotion picture looks like. I even have a slide show that I used on some occasions for that purpose. I think you ought to know that. You have to make decisions about staying in the JAG Corps, so you ought to have that information. I think back in my day a lot of us were just flying blind and we really didn't think about it, at least I didn't. I never even thought about that sort of stuff. I can honestly say I never once thought about being a General until I went to Fort Hood.

A: We noted that you got tasked to at least a couple of significant escort tours for some Korean officers while you were at Leavenworth. Was that a recurring duty or did you enjoy that type of duty?

A: No, I didn't enjoy it at all. As a matter of fact, I got tagged because they used to have little

cards, probably still have cards, in the Foreign Liaison Office in ACSI in the Pentagon of people who have been to language school and I got tagged to do that once. Then they called me about a second one and I went to the Pentagon and I told the gal that worked up there, I said, "Look, I could get out of this assignment by getting my boss to call." I was an instructor. "I don't have time to do that, but I tell you, why don't we strike a bargain. I won't do that this time. I'll take the tour and I'll give a complete tour of the United States if you'll give me the card out of there and not put another one back in." And she said, "Well, okay." So I took the card and tore it up. I took these guys off on a tour and that's the last one I ever did.

If they have a file up there, my name's not in it or shouldn't be. No, I didn't enjoy that. It's very difficult to try to escort some of those people around. I never had less than about eight or ten and I don't think any of them had ever been to the United States. They always wanted to go see their Korean friends; they didn't want me along and they'd figure out ways to slip off without me. Their culture is a little bit different from ours. A lot of those people have no hesitancy to just

walk up and down the halls of a hotel with nothing but their underpants on, their shorts, not even a tee shirt; and, you know, some of that kind of stuff is just not acceptable. They always seemed to manage to get some kind of little hot plate thing and have it in their room, when they weren't supposed to, to cook some squid or some damn thing. It was always a problem and they always wanted to buy more cosmetics and things like that than they were supposed to, just a problem. I never enjoyed it at all.

Q: Sir, just one question about the role of the JAG Instructor at Leavenworth and also the instruction here at the school. What are your views on what we should be teaching senior officers, battalion commanders, for instance, and those types and how should the two institutions mesh together?

A: Well, the reason an instructor was placed at Leavenworth, for starters, is that in the late 50's we had a rash of unlawful command influence cases. Army, Navy, Air Force--everybody had some. It was getting to be a problem and, of course, the Court of Military Appeals maybe helped create a bigger problem than there really had to have been in those days. Nevertheless they did it and it simply wasn't understood very well.

For example, I think all of us had a regulation that said, you eliminate homosexuals. It was very common in those days; the Navy did it all the time. They'd introduce the regulation into evidence with the members of the court on sentencing, saying here's the Secretary of the Navy saying get rid of them. Nobody thought anything about it until the Court of Military Appeals attacked that. We used to have directives that said you'd ought to get rid of barracks thieves or people who had been convicted three times or something like that.

So it was a big problem and the reason then for having instructors at Leavenworth was to teach about unlawful command influence, what you could do and what you couldn't do. Bob Miller was the first of those chosen by General Parker, because Miller and Parker were very close buddies. We did that and I continued to do the same thing. If you go out to Leavenworth today you'll find unlawful command influence barely mentioned; they're teaching other things. The significance of that is that we began to teach it a little bit in some of our service schools, the Advanced Course for the Infantry School and so on.

A little bit later we had a GOLO course which

was taught at the Army War College on campus at that time. Later we moved out here to the school for a lot of different reasons. For a long time now we've been saying every commander that we have in the Army is a product of this school system, through, the Infantry School, Armor School, whatever it happens to be, through Leavenworth, through the War College, through the GOLOs, the SOLOs, and unlawful command influence was just completely eradicated, that is up until 3rd Armored cases came along here recently. We find that some people have misunderstood or were misunderstood in what they said. But that was all a good effort. We gradually moved then from that to trying to teach people who are going to be commanders, or hopefully will be commanders, to recognize legal problems. That's really what we're doing at Leavenworth. That's really what is done in the SOLOs and the GOLOs. We don't really teach them much of anything; we alert them to recognize the possibility of a legal problem so that we get them to see their lawyer, and we've been very successful in doing that.

Incidentally, the GOLO/SOLO course originated in the Pentagon. Really,--at least in its present form. I was the Chief of Military Justice Division

in those days and a General named Fulton, Bill Fulton, who now works for the AUSA, was in the Pentagon and he was going to Fort Lewis to be the Commander of the 9th Infantry Division. I had known him around the building for some time and he stopped me in the hall one day and said, "Who's going to be my lawyer out there at Fort Lewis?" I told him "Damn, you know, I haven't done any of this stuff in so damn long." He said, "You and I ought to have lunch together and we ought to talk about this." And I said, "Okay," and I got to thinking about it. I called him up and I said, "Look, you know, why don't I get a couple of other guys around the office here from the Military Affairs Division and procurement folks and we will come down to talk with you." And so we did.

I went from Military Justice, and I believe Wayne Williamson from Military Affairs Division and two or three others and we just went down and sat around a table and talked to Bill Fulton before he left to go out there. His JAG was Rupe Hall and, we filled him with all the good things about what a fine fellow Rupe Hall was. So he liked his JAG before he ever got out there and we told him about some problems that were cropping up at Fort Lewis. How did we know that? We called Rupe Hall and

asked, "What's going on out there, Rupe? We'll alert your boss." We called him and I said, "Sir, here are the problems out there and some possible solutions to that." So he went out there and he liked ol' Rupe. He was kind of heads up on some of the problems that faced him when he got there. He wrote a long letter back to George Prugh, who was then the JAG and said "This is a hell of a good idea." He said, "You guys ought to do this all the time." And so we started then for Generals and ultimately Brigade Commanders, for people in the Pentagon we would do that.

That's how that idea evolved then into doing what we're doing today for those people and it serves us very well. It gives us a good chance to let these guys know something about how the JAG will be where they're going, tell them something about the problems that are going on, and we would do that, and teach them to be alert, to deal with their lawyer. I think it serves us all. We should continue to do this; it's a good program.

The school does a great job out here and sometimes we're not able and we still do the original way. Now, a lot of times the Generals don't have time to come down here so I'll get them in my office and give them a GOLO, just one on one.

At least they know a little something and they know who their JAG is. It gives me a chance to say, your JAG down there at Fort Hood will be Del O'Roark, a hell of a good guy. I've known him for a long time. He's a cracker jack, on top of things. So he's thinking good things about his lawyer before he ever gets there. That's not all bad. When we get around to talking about Fort Hood, I'll tell you about my first boss there, General Burdett. General Burdett's daddy was a JAG Officer and he grew up in the Army with JAG officers before going to West Point, because those are the people with whom his daddy associated. So he knew and let me tell you what, when your boss is the son of a JAG Officer, it's not always an advantage. Sometimes General Burdett wouldn't do anything without calling me and sometimes you'd get a little embarrassed because, clearly, he's asking me about somebody else's responsibility. But we had a very, very close relationship and that's good. Maybe it was a little bit too close, but the good, close relationship, I think, that you need with your boss is fostered by the things we do in the GOLOs and SOLOs.

Q: Sir, you indicated that you asked to go to the 1st Infantry Division.

A: Yes.

Q: What was the reason for that?

A: Yes. This was a good illustration of how PP&TO could screw up something. I came to the JAG Conference in 1967, having arrived at Fort Leavenworth in 1964. I went to see the PP&TO and said "I've been at Leavenworth now, this is my third year and so next summer I will have been there four years. What's going to happen to me?" Whoever the PP&TO was said, "Well, surely you'll to go Vietnam next year or at least the year following then." I said, "Well, look, I will have been at Fort Leavenworth for four years. Let's just take the suspense out of the whole thing and say that I will go in 1968. Get it over and done with." He said, "Fine." I said, "Okay. Now the question is what am I going to do?" He said, "Well, you'll be an SJA." I said, "SJA of what?" and he said, "Be a Division SJA?" I said, "Which one?" He said, "Take your pick. We haven't made any assignments for anybody yet." Roy Steele, whom you've heard me mention already, always talked about the 1st Division, always talked about Big Red One. That popped into my head and I said, "I want to be the SJA of the 1st Division." He said, "Good. Fine."

So I was walking down the hall and I ran into

Wayne Hansen, who was then an instructor here at the school. How in the hell he found out about all this that quickly I don't really know, but he said, "I understand that you're going to be the SJA of the 1st Infantry Division." I said, "Yes, that's right." He asked, "Well, do you need a deputy?" I said "Sure, do you want to go?" He said, "Sure." So we went back down to see the PP&TO and I said, "This guy wants to go to Vietnam. He wants to go to the 1st Infantry Division too. Now write that down in your little book." So he wrote that down in the little book.

I got back to Leavenworth and there was a Warrant Officer there that worked for me and I got to thinking about that. I said, "Dale, you haven't been to Vietnam and it's about time for you to go. Don't you want to go to Vietnam?" So I recruited my Warrant Officer to go, Dale Just, and I never trusted PP&TO anyway. I sat down and wrote a letter to whoever the hell the PP&TO was. I said Dear whoever he was, I just want to recount a conversation during the JAG Conference in which you said and I said and we agreed and etcetera and etcetera. Now if I have not recounted that we agreed upon correctly, please let me know. Nothing happens. At least I've written the letter.

Well, about the first of the year I wrote another letter and I said, Dear whatever his name was, reference my earlier letter, a copy of which is attached, I haven't heard anything from you guys. When are you going to send me my orders sending me to the 1st Infantry Division? I get a telephone call; "It's too early to cut those orders," he said, "we'll get around to that in probably another few weeks, but don't worry about them because we're sending you to the 1st Infantry Division." So I wrote him another letter, saying this is what we talked about, because I didn't trust those suckers at all. Things rocked on along for a little while and it was getting late and so I called and said, "Where the Hell are my orders?" He said, "We're just going to get those out in the next few days." After a few days I get a call and he said, "How would you like to go be the SJA of the 1st Cav?" I said, "I don't want to go to the 1st Cav. Why can't I go to the 1st Infantry Division just like we agreed upon?" He said, "Well, Emory Sneed is there and we'd have to take him out just a little bit early." He said, "You want to go at the end of June and we have to take him out the 1st of June and send him to Japan, so we need somebody to go in just a little bit

earlier." I said, "Well, send the guy that you're going to send to 1st Cav, send him early." "Well, all right. Are you sure you don't want to go?" "No, I don't want to do. Send me orders for the 1st Infantry Division."

Several days go by and I get a set of orders sending me as the SJA to the 4th Infantry Division. I was really mad by this time. I suppose under some other circumstances I probably would have said, "Well, okay, what difference does it make." But by this time I was determined that those suckers were not going to go back on their word. So I called him up again and I said, "I'm going to tell you this one time and I'm going to tell it to you straight. You have been promising me this for the best part of a year and now you want to go back on your word and I want to know why, because if there's not a very good reason I'm going to call up General Hodson and tell him he's got an incompetent, stupid PP&TO. So you tell me why you want to do this." He had some other bureaucratic reason about under-lap and over-lap and I said, "That's just not good enough. Why the Hell don't you take the guy that's going to the 4th Infantry Division and send him early? You know, that's just a dumb way to do business." He said, "Okay. We'll

get this straight and I'll send you another set of orders."

Now, I didn't trust the guy. I really didn't trust them. I knew that John Jay Douglass was the SJA of USARV, General Davison was still at Fort Leavenworth, so I went to see Big Mike and I told him about my dilemma here. I said, "Would you send a back channel to the USARV Commander for the SJA over there and make it clear that it's your understanding that I'm going to the 1st Infantry Division?" He said, "Sure." So he sent a back channel message to General Mildren, and I had it plugged in on that end. The plain truth of the matter is despite several promises out of PP&TO, I never got the orders sending me to the 1st Infantry Division, but I went to the 1st Infantry Division anyway because I had it laid on that end.

As soon as I got on board I sent a message back to PP&TO, or I attempted to send a message to PP&TO. The AG said, "You'd better not send a message. If you want to say that, you'd better write a letter." The message was pretty straight forward about them being stupid and incompetent; that despite all their incompetence I managed to get where I was supposed to go anyway. I ended up writing a letter. And I probably shouldn't have

done that. But I was really hacked off at what, to me, was total incompetence and lack of sensitivity on the part of the PP&TO. That was the third thing that I told the people that worked for me in PP&TO. First of all, don't make promises if you can't keep them; if you do make them, you keep them, and I don't want any more of this crap of going back on your word and things of that sort. If you can't plan and arrange things any better than that, you don't deserve to be PP&TO and I don't want you working for me; I'll get somebody else to do a better job and you go someplace else.

So I've been very, very demanding about that these last six years that I've been in direct control of PP&TO. I feel very strongly we must be honest and straight forward. Causing trauma like that when it's just unnecessary is bad; if it's necessary, that's something else. But none of this was necessary in my case. There was no reason in the world to screw around, calling me about the 1st Cav or sending me orders about the 4th Infantry, without even telling me. No reason, no explanation, nothing. There's just no reason for that at all and I've probably said enough about that. Anyway, I did get to the Big Red One and Wayne Hansen got there with me and Dale Just also

got there with me, so I hit the ground running with a team that I knew and that I trusted. I think we did a pretty good job, if I do say so myself. I think we did a pretty good job.

Q: What was the most pressing problem that you encountered in Vietnam?

A: Well, you mentioned earlier some of those little committees; they were over around Saigon, down there in the comfort of a luxury hotel, so you didn't find people like that at Lai Khe out in the jungle. I only saw one civilian lawyer the whole time I was there and he wasn't a true civilian. He was a retired Air Force officer, who had gone to law school and who was totally incompetent; he kept trying to tell me I couldn't convict his client of AWOL because I couldn't prove intent. I said, "Just a minute, fellow. You got that mixed up there. That's desertion." Well, he said, "You got to have intent for AWOL too." I said, "Hmmm," to myself, "I've got a live one here who doesn't even know the difference between AWOL and desertion." But that's the only civilian lawyer I ever saw up there.

We had other problems. First of all, in the first month that I was at Lai Khe we got over a thousand rockets and mortars on the base camp.

That tends to disrupt the work. It was difficult to operate the equipment. Everything is wide open; it has to be wide open because of the heat. So during the dry season there's the damn tanks and APC's and jeeps and everything else that's running all over the damn place. There's a red dust floating around in the air all time up there and, of course, it gets in your typewriters, it gets in your stenomask machines. The maintenance was really tough; it was very difficult to get things repaired.

Indeed, I didn't even screw around with the Army concerning my court reporting equipment. Dale Just was a good Warrant Officer and a good scrounger and I had a couple more than were authorized. I always had some spares locked up out of the dust and when one of them went kaput I'd pull out a new one and I'd mail the one that went bad to Emery Sneed in Japan. He'd get it repaired in Japan and mailed back to me and I put it back in a locked cabinet until I needed again. So I always had a change on hand and some guys used to complain all the time about not having machines that were capable and all that kind of stuff. Some people wondered how we had such mighty good luck up there with machines. I'd say, "Yeah, we're real

lucky and they seem to work all the time."

Then we had problems of dispersion. General Ware was the commander when I arrived, a most interesting man; I'll tell you some more about him.

He was a Medal of Honor winner during World War II. Legend has it that he is the only World War II draftee Medal of Honor winner who got to be a General, a really remarkable fellow. In any event, we had 22 maneuver battalions in the 1st Division. We did not have our jurisdictions consolidated; for example, brigade level special courts as is common today. The battalions retained special court jurisdiction. So this made the span of control greater, of course. I can't tell you for sure how the other Divisions operated. I'm sure they operated a little differently from time to time, but I think that we probably operated a little more differently than the rest, simply because of the dispersion. I sent our people out to the battalions. I didn't make the battalions bring the paper work in, so I got to spend a lot of time out in the field going out to the battalions and maybe spend a night or two to do the paper work and bring the paper work back.

Q: Did you have legal clerks assigned to the battalions?

A: Yes. This didn't happen instantly. Of course, I'm the new boy on the block. I started out very favorably with the hierarchy in the Division. I'd only been there no more than a week. When I first got there the junior aide was responsible for running the mess. There were some French buildings and Lai Khe was an experimental rubber plantation run by the French. Initially they grew various kinds of rubber trees and tapped them and then used the lactose to make rubber, to experiment to see what's the best producer and makes the best kind of rubber and so there were several French buildings there. One of them was used as a place for the CG to live and we used one of them as our mess. Anyway, the General's junior aide asked me if I wanted any liquor or mixes or anything like that to put in my trailer. I said, "Yes, give me a bottle of Jack Daniels and I need a good bottle of scotch and maybe some good vodka or something like that in case somebody wants something besides me. "Well, I don't have all that on hand," he said "But the next time I go to Saigon, which is going to be tomorrow, I'll get this for you." I said, "Okay, that's fine."

So the next time I went over to the mess he got these three or four bottles for me and he said,

"I apologize, sir, but this cost more than it does in other places and we don't get the 10% discount." I said, "Ten percent discount? Where do you buy this stuff?" "We buy it at the PX in Saigon." I asked, "Well, what's the 10% discount?" He said, "If you have a card that you're an authorized mess you can get a 10% discount." I said, "Why don't you get one?" "He said, "we don't have a constitution and by-laws and all that kind of stuff. We just never did it." I said, "You come over to see me in my tent tomorrow." We talked about this a little bit and I made a few telephone calls around and finally got some bureaucrat, a civilian down at Saigon and at USARV. The bureaucrat said if you've got a constitution and by-laws to make you a mess, we can give you a card. I asked, "Is that all there is to it?" He said, "Yeah." So I got Wayne Hansen and I said, "Wayne, make me a constitution and by-laws by this afternoon. I don't want anything fancy, as short as possible. I don't care what it looks like. Just give me a constitution and by-laws for the General's mess. Okay?" When I got this I went over to see the Chief of Staff and I said, "I want to see the General." They said, "He's out flying," and I said, "Well, I have something I want him to

sign." They said, "What is it?" "I want him to sign this, creating a mess." They said, "Why are you going to do that?" And I said, "Chief, I'm just brand new here and we've just gotten to know each other, but, you know, we've got to learn to trust each other. So, when the General comes back tell him I think he ought to sign this and give it to me and I'll take care of it." He said, "Well, okay."

That evening, when I went over to the mess, he said, "Oh, by the way, stop by the office in the morning. The General signed those papers." So I went over and got them, got the junior aide, called up the Chief and I said, "Chief, I want to borrow your helicopter." He said, "What now?" I said, "Well, just trust me on this." I sent the aide down to Saigon and he went to the proper place and got the card and came back and I took the aide and went over to see the Chief and I said, "Chief, you see that card right there? From now on drinks will cost us 10% less in the mess." He asked, "How'd you do that?" I said, "I just got the paper work done, that's all."

We had a little tradition in the mess, we always asked the blessing and the Chief would always select somebody about a minute before he sat

down. We got some rather strange invocations that way, most of them related to the Big Red One, but right after that that night the Chief said, "I've got another announcement to make. "Thanks to our new judge," from now on drinks and wine will cost you 10% less." So I was very popular just from the very start there. Despite all of that General Ware was very set in his ways about some things and he just would not let me do, right away, some of the things that I wanted to do. He said, "Well, I'll think about that." What I wanted to do was first, to consolidate and he didn't like that idea. Tradition was by command. I replied, "Well, I need some more clerks and I need a few more lawyers," and there are a lot of non-JAG lawyers around here. Well, he's going to think about that. General Ware was shot down and killed in September of that year at 1300 hours on the 13th of September.

General Talbert became the Division Commander. The first time I saw him, of course, he said "I haven't done this. I haven't done a GCM for three years." He was one of the ADC's and he was already on the Major Generals list so they just made him the Division Commander. And he said, "I just haven't done this, you know, for some time. We've got a war to fight here." We talked about how

General Ware did things and there wasn't any real need for him to do some of the things that General Ware wanted to do or did do.

Finally he said, "Look, Judge, you take care of the legal business and keep us out of trouble and I'll fight the war." I said, "Well, now, sir, I'll do that, but, you know, you have to back me up then." He said, "You take care of the legal business and I'll back you up in any way you want." So on that basis then I changed the way that we handled all the legal clerks, I mean the extra ones. I brought all the legal clerks into Lai Khe in my office and kept them there for about two or three weeks each and then I would send them out to the battalion that they were going to support. I got some extra non-JAG lawyers and began to replace or restructure the duties within the office.

For example, rather than have a JAG do the claims business I used a non-JAG. I used non-JAG lawyers as, if you will, as assistant trial counsels to help JAG prosecutors to get ready for trial. In fact they even prosecuted some, but mostly they assisted the JAG's and in that way we were able then to fan out and support those separate battalions and it worked well, I thought. We did a pretty good job, I think, and General

Talbert seemed pleased anyway; the Chief seemed pleased.

After I'd been there about three or four months, the Chief, who had been with the 1st Cav as a Brigade Commander, voluntarily extended so he could be the Chief of Staff of the 1st Division. To do that you've got to go home on leave for about 20 days. Somebody stole his raincoat off his MAC Flight on the way back and he was complaining about that at mess that night, because it was new; he'd just bought it. So when I went back to his tent that night we had a fellow named Mike, an Infantry guy. He had injured his back on a mission in the jungle and so he was just sitting around the hospital, so I scarfed him up. He was a law school graduate but he'd never passed the bar and so I scarfed him up and had him in the office and he was doing some claims work. I said, "Mike, fix up the papers there and we'll pay the Chief for his raincoat." We went over the next morning to see the Chief and I said, "Chief, young--whatever his name was--has got some papers for you to sign and I want to use your helicopter." He said, "Well, what are you up to now?" I said, "Well, just sign those papers for me, will you, and give me your helicopter." "Well, all right." So he signed them

and I put the Lieutenant on the plane going back to Zeon where the rear headquarters was.

In the meantime I called the Finance Officer, a friend of mine, and I said, "Look, there's a guy coming down there on a chopper. Would you send one of your guys out there with a check for--" however much it was--"and swap pieces of paper?" "Sure." So the chopper landed and they swapped pieces of paper. The Lieutenant came back, we went over to see the Chief, and I said, "Chief, the Lieutenant has got something for you," and gave him the check. "What's that for?" "That's for your raincoat." He said, "How'd you do that?" And I said, "Well, he swapped pieces of paper, used the helicopter." I said, "You know, Chief, if I had more helicopters we could do things like that for soldiers." He said, "All right, anytime you want it, you got it." And so this Lieutenant used to fly around and did a lot of that for soldiers and he probably had more Air Medals as he spent lots of time flying around settling claims.

He'd go out to the base camps and every once in a while something would happen; like once they were putting together a new base camp.

It was in the dry season and some idiot dropped a flare so they could get the choppers in and see

which way the wind was blowing. It started a damn fire, burned up the damn base camp, tents, burned up an APC, and soldiers carried everything with them, wallets, pictures of their girlfriends, mothers, wives, whatever, radios, cameras. All of it lost. We had this little process going pretty well and old Mike jumped on a helicopter with both arms loaded with forms and went out to the base camp. He would ask, "Well, okay, soldier, the tent burned down. What did you have?" "Well, I had a camera." "Well, what kind was it," so on and so forth, and he'd get the Sergeant and say, "Sergeant, did this guy have a camera?" "Yeah, he had a camera." Put down Sergeant So and So says he had a camera; he'd make some little notes like that, fill out the forms and that's all the evidence we ever had. He'd come back and get all the prices and get the checks and fly out there and give them the money.

Of course, we got a lot of complaints out of Claims Service because we didn't fill out all the forms and we didn't have enough supportive evidence in their view, and I just didn't pay any attention to them. I went right on doing it the same way and it worked out well. Soldiers liked it, commanders liked it. This fellow Mike--I can't remember his

name - I haven't seen him in years. He went to work for the post office in Washington. But he was a very, very popular fellow. They always loved him because he was one of the good guys.

So those are some of the good things we did. Some things were not as pleasant sometimes. We had the riot in the Long Binh jail occurred at the time that I was there.

Q: Sir, we would like you to talk about the riots in the Long Binh jail and a little bit about General Ware's death, and that you were appointed as an investigating officer into his death.

A: I don't remember exactly when the riot at the Long Binh jail took place, but it was after September of '68. I know that because General Ware was dead and General Talbert was the CG. In any event they did have a riot in the Long Binh jail. It was a terrible thing. There were people down there roaming around acting like animals, some prisoners clubbed others to death with ends of beds. So the message went out to USARV. The first one was to get rid of as many people as we could that were still there. General Talbert asked me about that and I said, "I can't tell you exactly who's there or how many are still alive because I don't know." He said, "I know they've been convicted of various

things, but they're still in the Army and they still belong to the 1st Division. I want you to go down there and I want you to bring every one of them back up here."

So I did. I went down and finally got into the inside of the thing and got into their records. I interviewed people, and identified all the members of the 1st Division. I think there were about 18 or 20 or something like that; and I brought every one of those scoundrels back up to Lai Khe. General Talbert talked to each one of them individually and explained the situation to them and said, "In view of the circumstances, if you'd like a second chance, here's your rifle and I'll send you to a different unit." And all but a couple took him up on it. Now they didn't all end up performing satisfactorily to the end of their tour, but some did, and he just set aside everything.

Then, of course, we were restricted on the numbers that we had in jail, very restricted, and part of the message out of USARV was that the CG must personally approve each person that was to be confined. We didn't do that in the 1st Division. So I did that and I'll tell you some of my secrets here. I think the statute of limitations has run.

The 1st Division always had less people in confinement at Long Binh than anybody else and also by percentage we were always less than anybody else. John Jay Douglass always held us up as an example. He always said, "How in the world do you people do that?" I was asked that a million times by other people. "You know, you just must not be putting anybody in there. You must have crooks running wild in your base camp or something." And I just never bothered to answer any of those questions when asked about it, but the answer was really pretty simple.

John Jay Douglass, I always thought, was a pretty nice fellow. I used to come down to USARV and visit with him quite regularly. I would fly down in the morning and visit with him and have lunch and then fly back in the afternoon, and he thought that was really pretty nice because the other people didn't do that. The truth of the matter was I didn't go down there to see Jay Douglass at all. The Provost Marshal's Office for USARV was just down the hall in the same building where Jay Douglass had his office. I had friends in the Military Police Corps from my Leavenworth days, who were there, and I always stopped by to see them and I knew precisely which day of the

month would be the day that was the cutoff date for counting noses. In some cases, I would not put a prisoner in if it was the 20th of the month. I wouldn't put a prisoner in on the 20th; I would wait until the 21st and the prisoner was never counted. I got him out before the 20th of the next month. I would find out where they were shipping soldiers. Some prisoners were being shipped from pretrial confinement now to Okinawa and even some to Hawaii, and I always knew when those flights were going. I always knew if there were open seats and if I could afford to volunteer a 1st Division guy to go to Okinawa.

So, actually, I'm sure I had more prisoners in confinement than anybody else, but they never showed up on account. I would take them in and put them out and I'd send them to Okinawa, bring them back, take them out the day before, bring them up to Lai Khe, presumably to let them talk to their defense counsel, put them in a CONEX container in front of the MP Station overnight, put them on a helicopter, take them back down, put them back in jail the next day. I was just running it every which way. My Warrant Officer was very good at that. So we'll have to just not let my little secret out. Oh, I guess it doesn't make any

difference now; I was just playing the numbers.

They played the damn numbers game down there so I decided I was going to play one too. Old General Talbert, he was always pleased. Every time he went some place and they'd bring the subject up they'd say, "Well, you did a good job there, Talbert." But we were just moving them around.

I had a funny thing happen with that. As I say, General Talbert told me to do it and he said he would back me and so at times I was pretty heavy handed. If a Battalion Commander insisted on putting a guy in confinement on that particular day and I didn't think that was the right day I'd just say no. And every once in a while somebody would get up to the Brigade Commander and, if I thought that was going to happen, I'd pick up my little intercom and I'd call General Talbert and tell him he was going to get a call, I thought, and he never once overruled me. Pretty soon the Brigade Commanders and the Battalion Commanders found out it wouldn't do any good to complain, so we all got along with it and it was pretty easy.

But I ran across this one young fellow who was a Battalion Exec and the Battalion was in the field and so he's at the base camp and in charge of whatever is at base camp. They brought a guy back

in from the field to be placed in pretrial confinement and there were some other things that were required. We required them to have certain clothing and pieces of paper filled out and so on and so forth. Then there was one last requirement and this was the deal that I had with the people down at Long Binh and that is if my signature was not across the back of the confinement order they couldn't take them.

So one day I got the list of people in confinement at Long Binh and I was going down the list, just looking it over, and when I would see a name--Smith or Brown or whatever it was--I said, "Who in the Hell is that that belongs to the 1st Division?" I looked up on the board; he's not on my board. So I called my Warrant Officer and said "You guys put somebody in there and didn't tell me about it." "Oh, no, we didn't do that." "How the Hell did he get there then?"

Well, what happened is that this young Major's Battalion Commander told him to put him in and he just hauled him down there and put him in confinement somehow. Whoever was doing the business didn't bother to look to see if the signature was on it. So I called up the young Exec and I said, "You got this guy in. I want you to go

take him out." And he said, "I can't do that. My commander told me to put him in." I said, "I don't care who told you to put him in. I'm telling you to go get him out and I mean like right now." He says, "Well, I'm going off on R&R." I said, "Your R&R has just been cancelled. You're not going anywhere, young man, until that soldier is out of jail." And he said, "you can't do that." I said, "Call anybody you like, but if you don't get him out, you don't leave this base camp." He thought about that for awhile and thought well, maybe he didn't want to take that chance, so he came hustling over with a piece of paper, which purportedly was a Special Court-Martial Order which was going to reduce the guy's sentence, and that was the way he was going to get him out.

It was amusing; it was a perfectly legitimate order until you got down to the bottom and it says "By Command of Lieutenant Colonel Clausen." And I looked at it and I gave it back to him and I said, "Go get a legitimate order to get that guy out." He said, "I don't have time. I told you I was going on R&R." I said, "No, you're not. I'm not playing games. I'm deadly serious. Everybody means something to me. You go get it and you go down there and you get him and you bring him back.

You're going to bring him right over here and you're going to stand him up right in front of me, so that I see him." He did and so we destroyed all the copies of that bogus order. I think we did anyway. Except one, which my Warrant Officer put a date stamp on the back and I framed it and hung it on the wall as a reminder of that incident.

My Warrant Officer then went to Europe; he and Wayne Hansen got assigned to the same division in Europe together. I went on about my business and then I went to Fort Hood, so I brought my Warrant Officer back to Fort Hood and was promoted at Fort Hood. I was going on a trip when I was a BG out to Fort Leavenworth and my Warrant Officer called me up from Fort Hood said, "I understand you're going out to Fort Leavenworth on a trip." I said, "Yes, how'd you know that?" "Well," he said, "I've got friends." I said, "Yes, I thought that." He said, "Well, let me tell you, somebody's there. Do you remember Major Whatever?" and I said, "Oh, sure. You mean the guy that wrote the bogus order." He said, "Yes. Did you know that he's now stationed out at Fort Leavenworth?" I said, "No, what's he doing?" And he gave me his assignment and said, "Why don't you call him up and buy him a cup of coffee?" So I did and we had a nice little chat

about that incident of some years ago. By this time he was a Colonel or Lieutenant Colonel, I can't remember which. It was the same guy.

But we did have a very severe problem, the limitation on putting people in confinement over there. There was another place you could use; the Marines had a little small confinement facility, someplace a little further north that I never used. But the people were trying to be innovative in what to do with people that they really thought should be in confinement, but they didn't believe they could put them in because of the numbers. So people started using CONEX containers, things like that, and there was some unfortunate incidents that resulted from that and some other things.

One I remember just as clearly as anything. The Long Binh riot was before Thanksgiving. I remember because I was in my tent one evening just getting ready to go over to the General's mess for dinner. I had a shower, shave and put on fresh fatigues and shined boots and everything and all, just about to go over and eat with the General at dinner. The Signal Battalion Commander, who was also the Signal Officer, stuck his head in my office tent, "Can I talk to you a minute?" I said, "Sure." He said, "We got a problem. We got a

couple black guys that are out in the jungle some damn place under concertina wire. We're going to have a damn riot here. We have a hundred people out there and they're all black. They've heard about their brothers being in concertina wire out in the jungle outside the base camp." I asked, "What the hell are they doing in the jungle like that?" He said, "I'm not really sure, but I think it's because they thought they ought to be put in confinement and you wouldn't put them in confinement. So they carried them out there, strung up some concertina wire, put a couple of cots in there and put them in it." I said, "Gees." He said, "We have to go out there and do something." I said, "Oh, no. How did I get involved in all this?"

So we went out and talked to this group. This Signal Battalion guy had a black Sergeant Major who was very effective in dealing with blacks and some of the problems that we had in those days. We talked to them and got them quieted down, got in these damn trucks, rolled through the gate, and went out. It wasn't very far, really, but it was in the jungle, and then we went by whichever unit it was and he had the only people available, the Exec and a couple of other people. We picked them

up and went out and, lo and behold there are two blacks on cots in the middle of a big pile of concertina wire, just circled, with no covering over them. I talked to the Signal guy and I talked to the Sergeant Major and I talked to the Exec of the unit they were from. I said, "The solution is very simple, Major, go take them out." He said, "I don't know if I can do that, you know, the Battalion Commander is the guy who did this." I said, "Fine. You do what you want to do, but I don't want to be involved in a race riot myself."

I got the Signal Battalion Sergeant Major over and I said, "Are there any other guys out here, any responsible Sergeants from the unit, this unit?" And he said, "Yeah." I said, "Well, why don't you get a couple of them over here." So he brought over a couple Sergeants and I said, "Look, Sergeant, this is just not right and we ought to really do something about it. Here we are in the middle of the night; we're in the middle of the jungle and the Battalion Commander is in the field." I said, "Suppose I just take these men out and release them to your custody. You guys be responsible for them. I don't know what they've done. If they've done something for which they ought to be punished, then we're going to have to

take care of that. If they haven't, then that's something else. But will you be responsible for them and would you bring them over to my tent tomorrow morning and we'll try to get this all sorted out. If they really need to go to jail or be in confinement, we'll put them in proper confinement." "Oh, yes, sir," he replied.

So we went back, got over to the mess just in time to see that there's no turkey left; they drank all the liquor. I got some kind of old sandwich that the Sergeant made up for me.

The next morning the two Sergeants showed up and they got one guy. And I said, "Where's the other one?" They said, "He escaped." I said, "I thought you guys were going to be responsible for these two." "Well, we are." He said, "We'll get him. We'll find him." "Okay." We took care of the one guy and several days later they brought the second one over. It was pretty obvious they had just beaten the stuffing out of him. I mean they had really pummeled that guy. He wasn't ready to do AWOL again. They had really administered their own justice.

I don't remember now what we did with the second one. The first one we put in confinement and he was tried and so forth. I don't remember

now what we did with the second guy. That was just one of the fallouts of the problems that we had when people got frustrated and didn't know where to put their confinees, this guy got innovative and its just that his innovation wasn't a very good idea. There's some other things you have to do from time to time that makes sense.

I got a call from the AG one day and he said, "I got a problem. We write letters to the parents or the wife of those killed and we got this guy that was killed and they've given me this letter, but I'm not sure this is right because I know that this fellow was tried by Special Court. My question to you is was he a Private E-1 or was he a 'Speedy-four'?" And I said, "I don't know. Why do you ask?" "Well," he said, "he got reduced." And I asked, "Well, hell, he's killed in action? It takes us a little time to review those Special Courts." I said, "We probably haven't done that yet, so I'll find it and let me see if I can take care of it."

I found the record all right, but some of the guys in the office were pretty speedy and they'd already signed it. Of course, under the law that's final and conclusive, right? So this guy was a Private E-1 at the time he was killed and not a

Speedy-four. I got to thinking about that and so I rang over for the General. The General wasn't there; he was out flying some fire fight some place. I got to thinking about the poor old mother getting a letter from the Army that said, "Dear Madam. Your son, Private E-1 Smith, was killed." She would think, "I thought my son was a Specialist Four. I wonder what happened." So I called Dale Just in and I said, "Write me up a Special Court-Martial Order setting everything aside and restoring all rights and privileges." He said, "You can't do that." And I said, "Who's going to sue?" So I just cut a Special Court-Martial Order and set the whole damn thing aside, called up the AG and I said, "Write the mother and tell her her son was a Speedy-Four."

That night, when I went over to the General's mess, I went over to see General Talbert said, "Say, General, here's what's happened and this is what I did." He says, "That's good. That's good." I said, "Well, the reason I'm telling you about it, General, is not even you have the authority to do that, much less me." He said, "Well, it was the right thing to do." And so off I went. And that's the only time I did it, but it was a little bit unorthodox. But I just didn't want the mother to

get a letter that showed her son had been tried and convicted. What good would it do when the poor boy is dead.

Q: Sir, what kind of standards--what kind of crimes warrant confinement? You talked about the problems with the pretrial.

A: Well, something like a murder, assault on an officer or something of that sort. You bring up something I'll have to talk about, too, teaching officers to give orders. Another of those crimes was cowardice before the enemy, and you just had to feel it. If I thought our number in confinement was low, then I would lower my standards. If I thought we were getting too high, I'd have to raise it a little bit. Sometimes I'd get in a bind and get up high and then here comes a guy that took a shot at his Company Commander out in the field or something of that sort and that kind of guy you've got to put in. And so I just had to do that and then I'd make a trip down to USARV and see my Provost Marshal and see if I couldn't shift somebody around some place.

As to orders, the young Lieutenants, would tell a soldier, "Soldier, I'm giving you a direct order. Pick up your rifle and get with the unit." He'd say, "I ain't gonna." "Sergeant, arrest that

man." Well, he didn't give him a chance to disobey the order, so we've got nothing to really try him for. This happened with such a degree of frequency that I sent Wayne Hansen and, by that time, Chip Haight around to give little short lectures on how you give orders. If you give people a chance to disobey the order, then you have something you can prosecute them for. If you say, "Join your unit and go through the wire," you must give them a chance not to do that. That was a little problem. We ironed that out. It only took a little bit of effort to go down and talk to people about issuing orders and how you do that. It took care of it.

Q: Sir, how about the new Manual when it was implemented? Do you recall having any significant problems now that you have the detailed counsel to the courts and judges?

A: See, that didn't happen until after I left and so I didn't have any problem with it. All I did was try to prepare for it for the next guy. There were some problems I know, because there simply weren't enough lawyers. The people back in the Pentagon got 300 more lawyers in, I think, in '69, before the '69 implementation. But the problem was that those 300 people weren't available that quickly over there and it just made it much more difficult

for them. But most people seemed to have survived. I guess they just worked a little harder. You'll have to ask someone else because I just wasn't there.

Q: Sir, how about the quality of counsel in Vietnam.

A: Basically, they were all, I thought, good. Now, they didn't all want to stay in, but the quality was pretty darn good. There were a few draft dodgers in uniform type of people, but I think the quality then in Vietnam was better than it was later when we still had Vietnam era people. I think the attitude of the people back then was pretty darn good. We had some minor problems, but most of those problems were with the enlisted people, not with the officers. There were a couple of occasions that things happened I wasn't too happy about, nothing really serious.

I have sort of an amusing story. I can't remember the last name now, but he was sort of a big, young kid and about 6'3" or so, pretty hefty. I think I mentioned to you we had 4000 rockets and mortars coming in the first month I was there. There were some above ground bunkers, not really spaced around base camp, and when those damn things would start coming in this kid would take off for the bunkers. I mean just lumbering along and he

was in such a state of fright that he fell and his knees and his elbows were scarred up. He knocked a couple of other people down in his haste to get out and it really got so bad that I called Jay Douglass and described this to him. I said, "Look, Jay, you're just going to have to get this kid out of here. He's going to hurt himself or somebody seriously. He just goes apart. Can't you give him a job down there and send me somebody else?" Well, he said, "Yeah, I know what I'll do." So he did.

I sent him on down there and Jay was true to his word. He sent me another guy. There was a hotel in Saigon that was used as a BOQ. They had a dance floor type thing up on the roof of the club, of the hotel, and across the street was a building that was referred to as the "tax building" and that's where the Claims Service in Vietnam was located, in the tax building. It was a little three story building. So Jay put this kid in the Claims Service, up on the third floor; and what's funny about it is that I don't think he'd been there more than about two or three days and old Charlie slipped in with a satchel charge one morning after the office got filled up and blew the stairwell out. This kid is trapped on the third floor. I bet he really thought I did him a favor

and just about got him killed.

Q: Sir, did you get involved in the operational side of Division business?

A: Yes. I am glad you asked that because it has some significance here. My predecessor was a guy named George B. Barrett. In fact, George Barrett practices law here in Charlottesville. I've not seen George for many years. We had very little overlap. I went to Vietnam earlier than I had planned to because George had been home, I think, twice on emergency leave. His wife was ill, but he had written me and asked me, after we got the things worked out that I told you about, about them trying to send me some place else. George wrote me a letter and asked me if I would come over early and with a minimum of overlap so that he could get back on account of his wife. I said, "Sure, what difference does it make to me. I'll come a little early." And so I only had about one day's overlap with George and I took him down to the helipad. I remember this so clearly. We were standing there and, of course, it's little noisy as he was getting in the seat of the chopper. "Oh, by the way," he said, "look down in the lower right hand drawer. There are a lot of artillery incidents there." I said, "What the Hell is an artillery incident?"

Well, the chopper takes off; I went back to my tent and sure enough I've got a desk full of those suckers.

There was a MACV directive in existence which required an investigation when any of your own people were killed or injured by fire or civilians, not VC's or troops. You had to have an investigation and they were commonly called artillery incidents, I suppose because most of them came from artillery. I started trying to read those and I could not read them for anything. I had no idea what any of it said. "I called my Yo-bo Tango and talked to Red Bird Six and Dungeon Five and my--" and I said, "What the Hell is this? I can't read this, this is not English." The first thing I had to do was to learn the code word for all of the units in the 1st Division. The 1st Division has used the same code words since World War I and everything starts with "D", like the 1st of the 5th Artillery is Dynamite; the Signal Battalion is Dynamo; and one of the Artillery Battalions was Dungeon, and they keep on and on; and the Headquarters is Danger. Danger--Four. So my code is Danger 17. You could go out to Fort Riley today with the telephone numbers and see that there's at least one number out there that ends

with 17. Still there; still using it. But, anyway, I had to learn all those because as soon as I knew the code names for all the units, then I get this business of calling the Commander six and Execs five, and so on. Now when you say Dynamite six it would make some sense to me what you're talking about it.

But I still had trouble and I went to see my Division Artillery Commander and I said, "You know, I don't know anything about this. I can't read this stuff. I have no idea what they're talking about. Tell me something about artillery." So for maybe an hour some days and a couple of hours some days, some days even a half a day, I went to one of the eight inch battalions he had there in Lai Khe and he had tasked the battalion commander to make an artilleryman out of me. And, so, they explained things, how you shoot and this, and zero in and all that, so that I could begin to make some sense out of this business. That's probably not important, really.

What really is important is that we did investigate all those things. I reviewed them all. I discussed them all with the CG and sometimes we didn't take any action; sometimes we did, but at least we did something. This was all sent to MACV,

and presumably filed some damn place. The significance of all of that is, I think, that the 1st Division is an old unit with a lot of traditions and a lot of cohesion. That's true about a lot of other units but probably not true of the America One because it was not really a division; it was a conglomeration of separate brigades that they put together and called a division, and they didn't have the same division style of esprit and it did not investigate things the way we did and I know from talking to others, most of the others did as well.

That showed itself in My Lai; they just did not do a very good job. There was a couple of other things too that happened over there. For example, an incident called Fire Support Base Mary Ann, and we can talk more about those incidents later because I really became involved with them not when I was in Vietnam but later when I was in Legislative Liaison and also chief in the Military Justice Division.

But we did have this procedure, which I think turned out to be very helpful to us, and I think in some way curbed people from doing some things that they could've but didn't because they knew that they would be investigated, and it's just

unfortunate that they didn't do a better job.

This led me to have some discussions with the S-3s about how they were using their gunships and the artillery. I conducted classes in what they call the "Big Red One University," which was down at Zeon. This was right next door to Saigon. All soldiers coming in to the 1st Division were required to go through the "Big Red One University." They would go to an orientation, but they were also given a lecture by either me or my deputy. Not by anybody else; just the two of us. One of us at a time would go down there and talk to them about war crimes and obedience to orders and common sense and murdering children and things of that sort. I don't know if it did any good but at least we didn't have any incidents like that while I was there.

One of the reasons I got in to some of it is that just before I went to Vietnam some dingy photographer talked a soldier in the 1st Division into cutting the ear off of a VC while he photographed it, and the dumb ass did it, and that photograph was available to the newspapers around the country at that time. And then to compound matters my predecessor tried it as a war crime -- by special court I might add -- and so that then

resulted in me being called to Washington. I stood up in front of General Hodson's desk just before I was on my way to Vietnam and he said, "I want to tell you this personally; I do not want any more war crimes in the 1st Infantry Division." You got it General. And, so, that had alerted me as far as the abuse of those things.

We certainly didn't charge anything as a war crime; I'm not saying that some didn't happen. We had some unfortunate things happen when people got shot and killed. We could have charge some things as war crimes, I suspect, but, you know, we'd never done that. If you'll remember I told you about reading the old BR Decisions at Fort Bragg. You can read through those things. All charged as murders and rapes and robberies, all charged under whatever the article of war were at the time, and when you go into a monastery and rape a nun at rifle point in time of war, that's a war crime, not just an ordinary rape. But we didn't charge it that way. As far as I know that was the only offense ever charged as a war crime in Vietnam that was charged that way.

Q: Sir, you mentioned a conversation with General Hodson that raises the overall issue of the relationship of general officers here in CONUS with

their JAG personnel over in Vietnam. What was that relationship like? Did you get Article 6 visits while you were there? That's something you would see?

A: Yes. General Hodson came to Vietnam while I was there. Well, to be backwards, because I think it's kind of funny; Jay Douglass when he got there, decided that he was going to visit each of the GCM jurisdictions once a month. He had a big chart put up on the wall in his office in Saigon and he had acetate on it and the 1st Division, 1st Cav, 4th, 5th, 25th and so on. I think he visited the 4th Division first and he got rocketed, and a couple of days later he came up to my brigade. Charlie must have been following them because they rocketed the hell out of us, and this was two nights in a row. You never saw John Jay Douglass again in any GCM jurisdiction for the rest of his tour in Vietnam.

General Hodson did come over there and he did visit some of the places. He visited at Lai Khe and he got rocketed, and he went on to visit a couple of more places, but he did not visit all of them. As far as I know that was the only trip that anybody ever made, to my knowledge. So, there was not much communication, as far as I could see. The JAG Corps never took advantage of the opportunity

that I believe existed to have a General in Vietnam. Everybody else got some additional General slots for that purpose, which they lost when the war was over, but we didn't take advantage of it. I can't tell you for sure why. I think I know why. I think they were afraid that if they said, "We need a JAG General over there," they would be told, "Well, take on of the BGs you got at the Pentagon and send him." And none of the BGs wanted to go. I'm told that nobody volunteered to go and apparently nobody had the balls to order somebody to go. They'd order me to go and order you to go, but at that point that was it. Anyway, they didn't choose to have a general officer.

Q: Would it have been helpful had there been a general officer assigned?

A: I think probably it would've been. I think he could've done some good down at MACV and USARV and he could relate with the other Generals down there.

Let me tell you something then about my relationship, it wasn't all that good with the Pentagon. It was after General Ware's death because General Talbert was the CG. We had a case, which itself was unremarkable. I don't even remember what it was about. But I was looking over the record of trial before sending it off to

Washington because I have to sign the inside. The SJA signs inside of the blue cover sheet, and I was just looking it over. What made me recognize that we had omitted something I do not know, but somehow it just sprang up at me that we left off one of the boiler plate paragraphs that we used to have to put in there because of a COMA decision, which told the CG you can suspend or set aside for any reason or no reason at all.

Somehow in getting our business done over there on the Board of Reviews, for example, you had to mimeograph as that was the only way we had to reproduce. So that means typing on a stencil and so we could run off the review and we would always run off a few extra copies, more than needed. I'd keep a few on hand and so whoever was writing the next review would cut and paste to save typing time. You could type this and she could just put it together, you could make it easier for the typist. And somehow that paragraph got left out. I claim it was Wayne Hansen and Wayne Hansen swears and be damned it wasn't him, it was Chip Haight. Anyway, I thought it was Wayne Hansen.

I called him in and I said, "You left this out so we're going to have to do something about it." And whichever one of us it was said, "Well, we'll

just retype it and put it in." I said, "No, I don't think we'll do it that way. I've already showed this to the general and I'm not going to retype it and add something to it." So, I just picked up a pad and by hand I wrote a note to the CG which said, "I left out the paragraph in the review that you've seen before, and a copy of it is attached. I would like to know if you were aware at the time that you took the action in this particular case that you could do the sort of thing that paragraph tells you. And, in any event, do you want to change anything now?"

Well, General Talbert was a smart guy. He sent me back a handwritten note which says, "Judge, I was well aware that I could take that action. You told me that many times. And I didn't want to take it then and I don't want to take it now. I'm perfectly happy with what I did." So I put the two pieces of paper together, stuck them in the record of trial, and sent it off to the US Army Judiciary. I got back some time later in the mail what was called an Air Mail Telegram. It looks like a message except they put it in an envelope and mail it. It was very bureaucratic; it came from the clerk of court and observed that the paragraph was missing from the review and such paragraph was

required by a particular case with the cite. Paragraph two, request you type a new review and action. This made me mad, so I picked up my pen and I wrote across the message, "Request denied," and folded it up and mailed it back to the U. S. Army Judiciary.

In return for that, I got a long letter signed by General Hodson recounting my misdeeds and directing me to get a new review and action. So, now I've got to go over to tell my boss for a second time I've screwed up. So, I wrote a letter back to General Hodson and said, "General, I have done what you directed me to do, but I would like to ask you a favor. The favor is this - would you please have someone write me a letter and explain to me why what I did was not legally sufficient, because nobody has ever addressed that." I never got an answer to the letter, and I still think what I did was right.

Q: Were they aware of the two memos?

A: Yes, but bureaucratically I didn't have it in the review. Well, anyway, it was just shortly after that General Hodson visited. He didn't like to be bothered too much with little things, such as, disagreements between people and this was some disagreement between me and his guys over at the

judiciary.

Q: Did you have contact with other Division SJAs over in Vietnam?

A: Very seldom. Jay Douglass had all of the group down in Saigon once. He said he was going to do it quarterly but, as I say, he only did it once. And we really didn't do much in the way of work when we went down there that time. We flew down one morning; had lunch; had a session in the afternoon; had dinner that evening and left the next morning to go back to our units. It was an effort to try to get people to talk to each other. I did not talk much to other people unless I really had some particular reason.

For example, one of them went down to Saigon once and stole my legal clerk and when I found out about it I called him up and said you better send back my legal clerk. Other than that I just didn't see them very much at all. I did see a little bit of the 1st Cav JA because they were off in the boonies some place, I forgot where. And they weren't even on General Hodson's schedule to start with, and so I asked him to come down to Lai Khe so he could at least see him and say hello. He's up at Fort Dix and he's a judge, Seb Trail. Seb thanked me for all of that by using up my allotted

time. I did see Jay Douglass as I mentioned earlier. Those were really social visits, and, as I told you, I didn't go down to see him in the first place.

Q: Sir, what kind of advice do you have for a Staff Judge Advocate in a combat operation such as you were in?

A: The first thing you have to do is figure out for yourself how the environment that you're in is different. That's going to be different depending upon where you are. For example, the SJA of the 1st Cav would not have nearly as much difficulty with a helicopter as I would. Simply because there's ten times more helicopters in an air cavalry division than there are in an infantry unit. So, you have to assess how things are different and what adjustments you're going to have to make to get those things done.

Basically you're doing the same thing that you would do any other place, you just have to innovate a little more in order to compensate for the problems that you face. I'm convinced that you must do all that you can to relieve as much burden from the CG and others as you possibly can. If you don't have a lot of trust and confidence going back and forth there that's going to be a little bit of

a problem.

I was, I think, fortunate in having both General Ware and General Talbert. I got along well with both of them. They're both fine people and I got along okay with the Chief of Staff. I had a little trouble with him at first. He said, if you want to see the General I want you to come in to see me first and tell me what you need to tell him or you can come and see me afterwards and tell me what you all talked about. Well, that gets you in the middle. It gets him in it. So I said, "Okay, I'll be glad to do that Chief." So, I just made it a point if the Chief wasn't around I wouldn't go to see the General, I'd wait until they were both around and I'd always go see the Chief first and I just took the time to do a little extra homework. I would have a long laundry list of stuff to discuss, so I would sit down in the chief's office and I'd just start talking and keep going and pretty soon he'd say, "How much more you got to go there, judge?" I'd tell him just a few more things, and he would say, well, maybe you ought to tell me about those some other time.

After two or three times of that I used to just stick my head in and wave to the Chief and the Chief would wave back. I'd go in and see the

General and not talk to the Chief about military justice business because he didn't have the time to waste on a long-winded SJA. But he was a good Chief of Staff. He did the best he could to take care of us, I think.

I told Del O'Roark when he was going down to Shreveport, "Del, I want to just tell you something and give you a little bit of advice. You were the SJA over in the 8th Infantry Division and your experiences, I'm sure, in many ways were just exactly like mine in the 1st Infantry Division. All your contemporaries will be lieutenant colonels; they're only five colonels in the Division and three Generals, and all of those lieutenant colonels would really like to be colonels and the colonels would like to be generals. They're young, up-and-coming people. Those are the kind of people that you find in those jobs. You won't find old farts in those positions. And that tends to make everybody at least fairly cooperative. They don't want to be known as an uncooperative fellow because that's an adverse reflection on them. You're going out to Fort Hood and you're going to find a lot of old colonels around there. Many of them are disappointed because they aren't generals. Their retirement is

close at hand. They're just not really interested in cooperating with anybody and you're going to find them very difficult to deal with so you ought to be aware of that before you go. The reason I'm telling you this is that I think that is one of the things that made it so easy to get things done in that environment - people were cooperative. They wanted to be that way. They didn't want to be obstructionists. There was a lot of esprit in the unit and lots of esprit in other divisions too, but I think that was one of the reasons why I never felt the need to discuss my business with any other SJA over there. I'd had a fair amount of experience in that racket and thought I knew what I was doing. I just felt confident enough to not want to talk to them. Some of them called me on a few occasions but I don't think I ever called anybody.

Q: Sir, what about General Ware's death? I notice you were appointed an investigating officer. Can you tell us anything about that?

A: Yes. There's not a great deal that I can tell you but it was unusual for a JAG to be the president of a board of investigation. But General Talbert, I think had confidence in me. He said, this is a Medal of Honor winner, and I want a really thorough

investigation. I want every single aspect of this taken care of and this is going to go back to Washington. I've even had some White House interest expressed in knowing about the death of such a person as the General. So, I said, okay.

Then he said, "Now, the next thing is we've got to have two more members for the board. Who would you like to have?" I said, "Sir, the first guy I would like to have is the Aviation Battalion Commander." He said, "Well, I understand why you'd want to have him. The other one, I don't really care, anybody you think would be good is fine with me." I just wanted to be sure that we could go where we wanted to when we wanted.

So for the better part of a month, I just turned my office over completely to Wayne Hansen and I devoted myself to that project. I flew everywhere you could fly; talked to everybody you could talk to; photographed everything that was possible to be photographed. I got inserted into the crash site twice trying to find the body of one of the soldiers or one of the crewman.

I'm convinced that at least one or two of us must have walked within a foot or two of that body and never saw it because the damn grass was so high and so thick, if you didn't step on it you wouldn't

see it. It was just that bad. But some Rough Puffs, the local militia, found the body later. I believe it was a very thorough investigation. They did have some repercussions.

One of the things it caused was that somebody in Saigon concluded that because the 1st Division had used the same code words that it would have been easy for Charlie to monitor the radio transmissions and know very well that that was 77. That was also different. It wasn't Danger six which was the division commander. His name was number 77, no name with it; just 77. 76 and 78 were the assistant division commanders. And you ask me why. I don't know why except in World War I the Division Commander's code number was 77, is all I can tell you.

Also, at that time there was a two-star plate on the side of his helicopter. You know, everybody else over there did it too. That caused some changes to be made. There were some new orders issued from Saigon about SSIs. They demanded that everybody use them. Previously everybody hadn't been using them except for the 1st Division. They took all the plates off of the choppers and issued some orders about flying the same pattern if you were going to go to the same place. If you were

going to go from Lai Kay to the French village, for example, the orders were to fly different routes and varying heights and not using the same pattern or going the same way all the time.

Whether that had any effect on that, I don't know. I have serious doubts. I had been to the French village with General Ware two days before that; same damn place; exactly the same place. For some reason, this was a 51 caliber machine gun and they decided to shoot at the helicopter. It hit the tail close to the rotor a sufficient number of times that it eventually fell off from vibration.

So, other than just spending a lot of time amassing inches thick reports, full of photographs, we interviewed everybody within miles, every Vietnamese we could find, anything that we could find, trying to pin down with absolute certainty exactly what had happened. We still don't know other than the tail did come off and there were bullet holes and that apparently is the reason why when it hit the ground it just burned up. All that aluminum and the JP4 and all that stuff, it burns like everything.

Q: Was there any discussion about the number of people that were travelling with the General?

A: No, there were not an excessive number. There were

crewmembers, two pilots and the two gunners, and his aide and my roommate, the G-4. There's nothing unusual about that at all. I traveled with him fairly regularly because my appointment with General Ware was always early in the morning; that's when he liked to do it. General Talbert liked to do it in the afternoons, any time he was available was okay with him. So, when I'd go over in the morning to see General Ware I always took my pot with me because if a radio transmission came in and there was a fire fight someplace he'd say, "Grab your pot, Judge; let's go." And we'd get in the helicopter and go to the fire fight, and mostly I wasted my time, if you will, doing nothing, and then when things got a little quiet we'd either be sitting down in the jungle some damn place or we'd be flying along in the helicopter talking about the case. That's the way I got cases referred to trial, got actions signed, things of that sort, just by flying in the helicopter with General Ware because he liked to do it that way. That's what my roommate was doing up there too.

Q: Sir, I noted that there was some correspondence between you and PP&TO and I noticed that you started the War College while you were in Vietnam, and I also noticed that you corresponded a lot

about your assignment with OCLL.

A: Yes.

Q: Concerning both of those decisions, did you have any choice in your assignment to the Pentagon?

A: No; no, I wasn't asked about that either. Roy Steele was in OCLL in those days and Roy Steele was very upset. He said that's not good for you; its too far away from the flag pole; you need an assignment in OTJAG and you ought to tell them you want one. Well, I never did, I just took what they gave me just like I'd always done. Whatever they told me to do I went out and tried to do it. Why didn't I go to the War College and why did I take a correspondence course, I'd rather not talk about, because somebody just flat-assed lied to me that caused that to come about, and those people are still alive, so I'd rather not talk about it. It didn't make any difference. I enjoyed it.

I had a little bit of a problem because that course was supposed to start and you're supposed to start doing it in September. In fact I got involved with stuff when I got over there in June and in September. General Ware was killed and I got involved in that and I was just busy, busy, busy, busy. Then, when Christmas time began to approach, it dawned on me one day; I've never heard

from those jokers at the War College. So I wrote them a letter, and somehow they had forgotten to send the materials. So, I got a Christmas package from the Army War College. First I got a message in which they acknowledged the mistake was theirs, that I was already ten lessons behind, or something like that, and that they would send me the materials along. Then I got a Christmas package which was a great big damn box full of books and stuff, because you got to read all this. I'm already way behind. I was trying to run a JAG office over there at the same time. So, I had to catch up.

If you didn't have all the lessons done by May they wouldn't bring you to the War College for your resident portion. So, they varied the procedure a little bit. Usually you're supposed to do lesson one and send it in and they evaluate it. If you successfully complete it they send you lesson two. Well, they sent me, I think, about fifteen or so, more than I was even behind. I had to embark on it as a little bit different program and so for some period of time there I had a regular routine.

I always got up early in the morning and I'd go and have breakfast at 7:30. I made everybody else report to the tent at 7:30 and clean it up.

I showed up at eight o'clock and so we were ready to do business. This is when I stayed in base camp and knew what everybody was doing. And then I would eat lunch, go to my trailer and nap for about an hour and I would come back and do something in the afternoon. Then I would go back over to my trailer and usually I'd leave a little early, around four o'clock, and I'd go over and get a shower and then pull out the old books and I'd start reading them. I'd read until I went to the General's Mess and when I came back from the General's Mess I would take all the material back over to my tent and I worked until two, three, four o'clock in the morning. And that just got to be a type of routine, and I caught up. So, everything worked out just fine.

Q: Sir, how about your assignment with OCLL. What were your initial duties there?

A: I was part of an experiment. They wanted to see how a JAG would do in a non-JAG job. So, I was assigned as an Action Officer in the Plans and Operations Division of OCLL. Eventually, after awhile, I became the Branch Chief. Then I got promoted to Colonel so they made me a Division Chief of one of the other divisions, which is more closely related to a JAG slot. That was a lot of

fun because I'd only been there a short period of time.

I was in a little office, a very small little place with three of us. General Becker came in and said, "Which one of you guys is working on think bill?" "I don't know, sir, what's think bill?" He said, "Oh, I don't know; somebody wrote a letter and said one of our people shot and killed a lot of Vietnamese women and children, or something like that." They pointed to me, probably because I was the newest guy in the office, "You find out." So, I became the My Lai action officer.

I became acquainted with My Lai and went through the files in OCLL and found that there were written letters to about 11 people I think, Congressmen, Senators, Secretary of Defense. All were answered in basically the same way. We don't know what you're talking about but we'll look into it and get back to you. These were all written about early 1969, March, somewhere in there. And this is now about September, maybe August, and nothing had ever been done. No further action had ever been taken by anybody, nobody apparently took it seriously. So in a very short period of time I collected a couple of file cabinets full of papers. I mean that was practically all I was doing. I had

to work on the authorization bill, because that's one of the things we did there at that time of year. But, I was doing a hell of a lot of My Lai stuff then; that was '69. I kept that.

I was still the action officer responsible for that up until towards the end of 1970. I came out on the Colonel's list and all of a sudden I outranked a whole bunch of people in the Plans and Operations Division. They made me the Chief of the Legislation Division, so I turned over all of my My Lai stuff then to Roy Steele who was then the Chief of what was called the Investigations Division. There were several filing cabinets full of paper by this time and this was big stuff. I went on to do other things.

I was only in Legislation for a very short period of time, as I recall. General Prugh called me down there and said that General Williams, who was in the AJAG military law, wanted me to be the Chief of the Military Justice Division. I said I hardly knew General Williams. If I bumped into him in the hall I wouldn't know him so I don't see why he wants me. Well, he wanted me, apparently, because the Bill Barry that I mentioned at 7th Army had gotten to be a colonel and retired-- had a heart attack. He lived in Oklahoma and Bill and

Larry Williams corresponded all the time. Larry Williams told him that Bob Miller was the Chief of Military Justice and Bob Miller was leaving to go into the court. The plain truth of the matter was that he didn't want to work with Larry Williams. Bill Barry said, if you're looking for somebody who knows military justice why don't you get Clausen for that job. That's how I got the job.

So I became the Chief of Military Justice Division, which was very interesting. One way was that by this time the My Lai business had filtered through the system, we'd had the Calley trial, we'd had the one down at Fort Hood, we'd had several other things going on, such as some investigations on the incident called the Fire Support Base Mary Ann. All these things have filtered back to the Army staff and I get a double dose of My Lai.

Now I'm reviewing all of the various actions that are going on with respect to those who were determined to be responsible in one way or another for the My Lai incident and what was going to happen to them. I'm talking about the people who were tried but also there were a lot of people involved that were handled administratively. So, it was necessary to rehash all of that all over again and come up with recommendations about taking

away medals and demotions and letters of reprimand and all of that. So, I got a double dose of My Lai.

That was an interesting time working for General Williams. I really had never known him before in my life. In fact, I don't think I'd ever even seen him in my life. Did you ever know Dave Minton, who used to be the commandant down here at the school?

Q: I was in the Basic Course when he was the commandant.

A: Dave's a great guy; sometimes he gets very nervous. I've known Dave for a long, long time. Dave had a lot of experience in the Military Affairs Division, now called the Administrative Law Division, and, of course, that's where Larry Williams had a lot of experience. I knew where I was going. I was going down to the Military Justice Division. I had not yet moved; I was still assigned to OCLL.

But I had been down to OTJAG to talk to somebody about something or other, I don't remember what, and I ran into Dave Minton and he said "Do you know whose going to be the new AJAG, Military Law?" I said, "Who is that, Dave?" He said "Larry Williams," that's who he says, "That SOB, blah, blah, blah." And, so, I don't know what made me do

it but I looked ol' Dave square in the eye and I said, "Dave, you're talking about the best friend I got in the world." God almighty, he got all nervous. He went off and I went back to OCLL and I sat down at my desk and I was chuckling. I thought, my god, I bet ol' Dave's back there about to have a heart attack. So, I went all the way back and I said, "Hey, Dave, I got to tell you - he's not my best friend. I don't even know him; I've never even seen him in my whole life. He said, oh my! (laughter).

See, Larry Williams had some standards that they used in the Administrative Law Division and each month, statistics were kept by the month. The Chief of the Military Affairs Division had to give him a list of all the cases that were in the division for over 30 days and an explanation as to why the case was there for over 30 days. Larry Williams explained all of this to me as I had never been to the Military Affairs Division. He said, "Well, that's never been done in the Military Justice Division, but I want you to start doing that." I said, "Yes, sir." He told me a lot of other things, but, that's one of them. So, I'm trying to find out what's going on over there in the Military Justice Division, and the log is in a

shambles and you can't tell anything.

I started checking around and saw what's here and what's there, and the log shows it is but it isn't. I find things that aren't in the log. The first thing I did was to tell everybody, stop working. We're going to inventory everything you got. We're going to get the log right. So, we got that going; got everything in the system, got everything picked up and now we know what's there, then I start going through it. I said, "My God!" I went back to see General Williams; this was about a week or two later, maybe longer. I said, "I'm not going to be able to give you that report you wanted by the end of this month. He said, "Why not?" "I'm just not in a position to tell you accurately, I believe, exactly what's going on over there. I need more time," I said. He was very reasonable. He said, "Okay, how much time do you want?" I said, "Well, give me another month." "Okay."

About halfway through the month I went in to see him and said, "General Williams, I will have the 30 day report ready for you by the end of this month, but I just want to tell you ahead of time," -- because I'd been told he was very temperamental, bad tempered -- "I just want to tell you ahead of

time you're not going to like it when you see it." He was getting tough. He said, "Why is that?" I said, "There's just too many of them; that's why. We got some very old cases." "Oh, well," he said, "I'll be the judge of that." I said, "Okay."

At the end of the month I took him the 30 day report. He was accustomed to seeing maybe a couple or three cases out of the Military Affairs Division, but I had hundreds of them; page after page after page. The first several that he looked at were over a year old. He leaped up out of the chair and he started pounding the table and yelling and screaming at me, "What the hell is this; a case over a year old?" He stopped right in the middle with his fist raised up in the air, and said, "You haven't been here a year, have you?" I said, "No, sir," and he got mad all over again. He sat down and said, "How the hell can there be so many?" I said, "I don't know, I've only been here a couple of months." I continued, "Well, how about letting me give them to you over about six months for starters and we'll work it down."

It took me quite awhile, really; there were some cases in that division that were over a year old. There were final general court-martial orders with dismissals of officers that had disappeared

and we didn't know where they were. We called all over the place, to MILPERCEN, to AG Records, everywhere, and couldn't find them; no one knew what the hell happened to them.

Well, one of the things that happened was that we used to draft orders and send them to the AG and the AG would do his magic down there about selecting. The last line of an officer case says, for example, First Lieutenant Smidley ceases to be an officer of the United States at midnight on the 10th of April 1985. That was all they needed. I just went down to see the AG and I said, "Look, you do the paperwork; I'll do the legal business. You tell me when you want the guy to cease to be an officer and I'll write the court-martial order and I'll get it signed. I found out that what they were doing was putting it on a flex-o-writer machine and signing it Secretary of the Army. Hell, I could do that as well as you can.

I don't know what happened to all of those orders. I just wrote new ones and got them signed. We got all those cases out of the way, but the cases were in really bad condition. When I left there to become the Exec (George Prugh decided he wanted me to be an Exec), I was replaced by Jim McLand.

Some six months or so after Jim McLand had been in the job he walked down to see me one day and he said, "I got good news." I said, "What's that?" He said, "I have submitted the first 30 day report to General Williams." It had taken that long to get that thing. I think I was recording 45 day cases. I'd gotten it down to those proportions by the time I left, and it took him six more months to get it down to 30 days. That's the kind of condition that place was in.

Who gets all the blame? I don't know. The place was in a lot of turmoil at that time. There were many, many thousands upon thousands of letters with respect to the Calley case. I suspect the office was spending more time writing answers to letters on Calley than they were doing other things and they just fell behind. Anyway, it finally got straightened out and things, as far as I know, are on an even keel these days. But that was one of my problems when I got there.

Of course, it was interesting getting to know Larry Williams and his temper. He'd fly off the handle and just fuss, raise hell and cuss, phew, just really something fierce, every once in awhile. I'd been told about this though, and I concluded for myself that he wasn't really mad with me. I

came to the conclusion that he would sit in his office and say to himself, "I'm going to work myself up into a lather and I'm going to go and yell and shout at Clausen and I'll see what happens." So, he'd just yell and shout and scream and everything. I'd just stand there and look at him, and if he seemed like he was running out of gas a little bit, I'd say, "Now, General Williams, you seem to be upset about this; now, what would you like me to do about it?" And he'd eyeball me for awhile. He'd say, "Well, I want you to do this." I'd say, "Yes, sir." And he'd leave.

We went through that about two or three times, and he never raised his voice to me again after that. I'm convinced that's just his style. He's a very interesting fellow, and he does have a good sense of humor.

I had a secretary in that little office with me who wasn't the world's best secretary and I wasn't the world's best proofreader either. But one day I told her, "Make me out a leave slip; I want to take leave for a period of time." She put a leave slip there on my desk. I was really busy, it really was hectic and I was under a lot of pressure to get rid of cases that were old and all of that kind of stuff. So I just reached over and

signed the thing without really looking at it and threw it in the ol' out box. She picked it up and took it over to General Williams' office. It wasn't very long before General Williams walked in with a big smile on his face, dropped it in my in box, didn't say anything, turned around and walked out. I wonder what that was all about. I reached over and picked it up, put it in my middle drawer. Oh, oh, wait a minute, let me look at that. His signature block was made out not Lawrence H. Williams, but William H. Lawrence, and he signed it "William H. Lawrence."

I said, "Well, I wonder how I'm going to get out of this." So I took a buck slip to BG Williams. I told my secretary to make me out a new one and she did it right this time. I said, "Attached is a leave slip for the period of . . .," whatever time it was. "I previously had a leave for this time period of time approved by one Williams H. Lawrence. However, I've discussed this matter with the Chief of the Military Affairs Division and it is concluded that since William H. Lawrence is not my immediate superior that the leave slip was not valid, and I'd appreciate it very much if you, since you are my superior, would approve this leave." He walked in, smiled, dropped

it on the desk, walked out, didn't say anything, but he'd signed it.

Q: Did you save the first leave form, sir?

A: I probably didn't.

Q: Sir, were the EM Club cases going on while you were Chief of Military Justice?

A: The EM Club cases? What's that?

Q: Sir, you probably remember the trials with the Sergeant Major Woolridge.

A: The first Sergeant Major of the Army you mean? Yes that had taken place before my arrival back at the Pentagon. I should say before I got to the Military Justice Division. There was that case and the case of General Turner, who was formerly the Provost Marshal General, as well as another General in the Provost Marshal named Gustufson. I was not directly involved in those.

Incidentally, Turner had been tried a long time before. He was tried while I was at Fort Leavenworth. In fact, he came to Fort Leavenworth to visit when I was there, and that's the way I met him at the Provost Marshal Activity. He also had a son going to school, and he came to school a few days late, I think. As it turned out later, he was also dealing in guns over in Kansas City.

In fact, when I was at the DB we, from time to

time, transferred very dangerous prisoners and those who just wouldn't behave at all to the Federal penitentiary. We had procedures for doing that, and we did do that occasionally. We put some of the really bad ones over to the Federal pen, because it is supposed to be a disciplinary barracks as opposed to a pure jail. We'd try to instill discipline to some degree, perhaps return some people to duty. There was a requirement that those people be visited once a month and the members of the staff did this on a rotating basis. I did go over to the Federal pen to visit our Army prisoners on occasion. I was always asked to drop by and see General Turner. General Turner made tooth brushes while he was a prisoner there, and I'd say, "General, how you doing today?" "Oh, just fine," standing there making tooth brushes. Drawing his retirement pay, I might add.

But those cases did have an impact. Because of some of those cases, and Larry Williams had some part to play in it, the Army changed regulations with respect to the filing of Article 15 records. Previously, the command, at the time that the Article 15 was given, was to decide whether it would be filed on the efficiency report side of the folder or on the personnel side of the folder, and

for how long. The significance of that was that if the commander filed it on the personnel side of the folder, that information was not provided to promotion boards. The only thing was the efficiency side that was forwarded to MILPERCEN.

It made a difference because the first Sergeant Major of the Army had some Article 15s. Turner had one at one time, as I recall, and a Lieutenant Colonel named Herbert was sort of a problem child for awhile. He had had a number, of which many were filed.

Then there were a couple of other lesser known cases in which people had gotten Article 15s. They changed that to provide that all of them had to be filed on the efficiency report side. It was the "throw the meat on the table" approach. You just bare your chest and tell all, good and bad, and people on promotion boards are smart enough to figure out who ought to get promoted. The promotion boards today are almost not boards for selection but boards that are convened to decide who to select out, because the competition is so intense the slightest little thing causes you to be disqualified.

We had a lot of problems back in those days. There were a number of people who, for example, in

Vietnam were given Article 15s and the paper was filed, either on the personnel side or on the efficiency side for two years, and when the two years were up presumably it comes out and moves to the other side. And, now, all of a sudden they're all back on the efficiency side. We had a number of complaints and a couple of law suits as well, and a lot of Congressional interest on why we did it that way. But it stayed that way for a long time and eventually got changed again to the system that we have today.

Q: Sir, when you were the XO we understand there was some activity taking place with respect to General Order Number Eight, concerning the general relationship and the authority of the Judge Advocate General with that of the DA General Counsel.

A: Well, that had been done a couple of times. There were some real dastardly deeds done before I became Exec. These were done back in '70 or even '69 perhaps. It was tinkered with again. There were a lot of reasons for some of those things that happened, and you can't rebag a cat once he's gone. There were some mistakes made, in my view, by the JAGs, some of them, that caused DA General Counsel to want to do something.

There was some reluctance on the part of some of our JAGs, I think, to really take much of an interest in Procurement; perhaps we just didn't care, and so, in a sense we were just eased out of that, but now we're getting eased back in again. I think it would probably be better not to discuss that very much really. Maybe in some later years, perhaps, but not now.

Q: You looked at the My Lai Investigations and those events two times. What lessons do we learn from the lawyers' point of view from that entire incident?

A: Well, I don't know that we as lawyers needed to learn a great deal out of My Lai. I don't think anybody knows what caused Calley and his people to do the things that were done. If you looked at the photographs of those bodies in the ditch, those little babies and old women, it wouldn't take too long to conclude that you really ought to know better than that. You really should know better than to shoot babies, but somehow they just went wild in the My Lai village. I don't think anybody knows why exactly that happened.

It would've been a tragedy in any event, but had it been investigated properly and the incident brought to light quickly and something done about

it, the Army would have received a great deal of criticism but certainly nothing like we did get. And there were some opportunities. There were some staff mistakes made within the American Headquarters that resulted in the matter not being brought to light in a way that would cause an investigation. Surely, if we could spend the time in the 1st Division to investigate and take action on the misdirected artillery fire or when gunship fire goes out of control and shoots the wrong thing, they could've taken the time to investigate something of that scope. I've talked to a lot of people about this and I personally believe that there just wasn't that relationship among all of those people up there in a division type orientation and they didn't communicate and didn't talk.

It's a combination of a lot of things like that that just caused some mistakes to be made and overlooking what should have alerted the people. There certainly were some points along the way, it seems to me, at which a more astute person would've been alerted and asked some questions and questions would've been answered. But, you see, they did very much the same thing with a thing called Fire Support Base Mary Ann.

That was an incident in which a young fellow wrote a letter home to his mother and father saying I'm out here at this fire support base called Mary Ann and I'm really afraid because it doesn't seem to me that people are doing the right things for our own security and I'm just afraid. Well, by the time the mother and father got the letter the boy was dead and so were many other people dead because Charlie basically overran the place and a lot of Americans were killed.

It became very clear, to me anyway, after the investigation that the Brigade Commander was aware that there were a great number of deficiencies in the defense of that perimeter and while he ordered some things to be done he never bothered to check on them properly. He should've at least asked some questions about whether these things were done. He just apparently didn't.

Then to make matters even worse when the fire fight was over there were some bodies that were dumped on a garbage heap, which was adjacent to the base, and burned. That wasn't discovered until much later, even though a large number of photographs passed through Division Headquarters. There seemed to be a confluence of some poor investigations and inattention, or a lack of

observation. Somebody should've looked at the photographs, and I did. The photographs had to be looked at carefully to determine that those were pieces of bodies. There was not just a big stack of bodies that anybody would notice or see them; you had to look. People just weren't looking at all those details. And that caused a lot of problems for a lot of people. A lot of people were injured personally. One guy's name was taken off the BG's list, and some other things. I don't know what lawyers learned from that. I think all of us ought to learn from that that it just pays to be alert and observe and ask questions sometimes.

Q: Sir, what was the impact of, if any, of the VOLAR movement in the Army in the early '70's?

A: I don't know exactly where that term came from, but we did have an office in the Pentagon at one time that was called the VOLAR office, and that was the beginnings of the Recruiting Command. Well, it caused an awful lot of things. It's caused a lot of changes in the Army. Instead of just going out and drafting a number of people that you need, now you have to go out and hire them. So, we have this big bureaucracy that does all the recruiting; we do it ourselves. We have our own recruiting office and it was a massive effort when Congress decided

to do away with the draft. When you do a massive thing in a hurry some mistakes are made. And, of course, we did have a great number of recruiter misconduct cases, and recruiters who were cheating on their TDY and a few things like that.

In a certain sense, it's a price for doing business, although you can't condone people who cheat. I hate to say cheat, though. The recruiter misconduct cases were like guy's overlooking a marihuana conviction in order to meet their quota, because there was intense pressure placed on those recruiters. We, I think, initially got far too many Category Four people. We recruited people who just didn't make good soldiers and that caused us a lot of problems for a while, and we have made a lot of progress in that. I think we get 95 per cent high school graduates today. That's an improvement. So, I think the quality of our Army has gotten better.

But back in those days, Vietnam was a very recent memory and there were a lot of good people that you just couldn't talk into coming into the Army, so we weren't getting the best people. We were getting some good ones, of course, but in the main, I think, the quality of our Army went down. Now, it's going up steadily. It's very high now,

I believe. You can see that yourself. The quality of the JAG Corps has gone up too, I might add.

Now, what exactly we have recruited, I'm not quite sure. I think we have hired a lot of people for some jobs. Now, you can't go out and recruit people for a 30 year career in the Army. You have to hire them first. I understand that. The question I would raise is - how many of the people who we hired are going to opt for a career in the military service as opposed to just having a job? I don't know the answer to that, but I know of an awful lot of married couples in the services. Somebody once said 20 per cent or so of the Air Force is married to each other; I don't know if that's true. Going to the Pentagon I very often see young E-4, E-5 couples, one's a Marine and one's in the Army, and they kiss and one goes in the building and the other one heads off to the Marine barracks, or the Air Force or the Navy, or whatever.

You can look at the pay scales and see that two E-5s are making certainly more than one E-5 and they're living pretty well. And two JAG Captains, for example, probably together make about as much money as anybody in the Army does by himself. A couple of JAG Majors do, that's for sure. Now, how

long that's going to last, I don't know, because we have gone out and recruited like that, and I have views about that. I've thought about that a great deal. I don't have any solution.

I don't have a prediction, except three years ago when Barry Steinberg was the head PP&TO, they presented him with an extensive briefing of the five year plans which showed that promotions were going to get very tight in the next few years. I understand all the figures they have and I understand why they've interpreted those figures in that way, but I was not convinced then that we could properly assess what was going to happen to us because, I believed then and I believe today, more people are going to get out than our statistical model shows us.

You might have noticed recently that we lengthened the zone of consideration for Captain to Major. I'll just tell you that when I get back to the Pentagon, based upon some of the information I've gotten over the telephone in the last couple of weeks off of this trip, I may just lengthen the zone of consideration for Major to Lieutenant Colonel as well.

Q: Is that a direct result of people leaving the service?

A: Exactly. More people have gotten out than we anticipated based upon the statistical data that's available. The only way you can really compute is with a two dollar calculator, but that doesn't tell you what's up here. What concerns me about that is that they're now recruiting with a great big poster. In the background is a castle in Germany, and there's a couple there, a beautiful girl, a very handsome young fellow, and they're all smiles. Our recruiters are pitching the JAG Corps by saying why don't you not join the Navy and see the world but join the Army and see Europe with a 30 day free paid vacation a year, free dental care, free medical care, pay's not too bad, you can travel on weekends, beautiful autobahns over there, and you can really have yourself a good time. We have bought people that way, and up until I changed the career status business recently, we did that same thing. People would call up and say I've been at Fort Lee now for a couple of years and I'm thinking about applying for career status. Oh, that's good PP&TO says. Well, says the Captain at Fort Lee, if I get career status do you think there's any possibility that I could get an assignment in Europe? Guarantee it, says PP&TO. If that's what you want, that's what we'll do.

What I'm trying to say is that there have been very, very few instances recently for which it has been necessary for PP&TO to call up, as they called me when I was at the JAG School, and say, "Clausen, you're going to Korea." Something unexpected. We've been very successful in getting that job done. If you've heard any of the pitches that I've given sometimes around various places, you've probably heard me say, as I mentioned at one time earlier today, help PP&TO manage your own careers. The first 20 years you can do a long tour and a short tour. If you're not smart enough to figure out what a short tour is, you're probably in the wrong business. You ought to at least be able to know that from being in the Army what a short tour is. But, seriously, if you think now would be a dandy time for you to go to Korea why don't you say so. If you think you'd really rather go to Europe now and work in Korea at some other later time, well then plan ahead. People do precisely that, and we've had very few occasions to say no to people or send them some place that they don't want to go. It doesn't happen very often. Sometimes, yes, but not very often, and so I don't think most of us have been tested very much.

I'm devoted, I believe, to this thing we call

the Army; it's more than just a job. It must be somewhat in the nature of a job for our women. We can't keep them. We have no JAG female colonels. We only have three lieutenant colonels and we just lost one of our lieutenant colonels. She got immobile. And just like Susie and Glen Gillette. Susie had a second baby and decided that she really would rather be a mother. And I'm not fussing about that. I'm very fond of Susie and Glen; they're just very, very fine people, but we lost a fine officer when we lost Susie and we lost a female and then the number of females in my statistics went down.

There must be something out there that we have been unable to really figure out well about females that causes them somewhere before they get to be a lieutenant colonel to decide that either they're going to get out completely or if they're a married couple that they want to be a mother instead of a JAG Officer. There's something out there. I'm not sure what exactly it is, but I know there's something out there because there have been more people getting out than we would've thought.

My personal belief is that people have come to realize that the Army is not really for them. I don't know what they're thinking about. I suspect

that some of them have not been overseas. I go around and say you're going to get a long and short and they get to thinking about that and they may not want to go. What about school for the children? Their children are beginning to get a little older; I don't want to move; I don't want to take them out of school. Or they buy a house, the wife doesn't want to leave the house. I think we're just hiring people for jobs. We'll just have to wait and see.

Q: Do you think this was carried out by the VOLAR movement or is this a correction for the type soldier and officer we've got during that time?

A: We still have a VOLAR today; we just don't want to call it that. We don't even call it the "All Volunteer Army" anymore. We just want to call it the Army. But this is still a volunteer Army. Everybody that's in the Army is a volunteer. You volunteered to come in. No one forced you; you weren't drafted. There isn't anybody drafted any more. There are a few people around that came in when there was a draft and there are some that perhaps came in during the draft into the JAG Corps to avoid being an Infantry type. I have a lot of draft dodgers in uniform down at Fort Hood. But they should realize you don't have to stay around

any more. You can get out if you want to.

So, everybody we have today is volunteer, because they like the job, among other things, and when they get to the point where they don't like the job anymore because there may be some hardships that are associated with it, they get out. I'm sure there are people out there, I've talked to some, that don't like stairwell living in Germany.

And I'm sure that there's some guys whose wife has said, "I am not going to do that again." That's the reason I've always thought that my wife is a better recruiter than anyone to get people to stay in. There's no sense in me really giving you a big pitch to stay in as I travel around. I'm willing to do that, you understand, but if you're going to stay in your wife better want to stay in or you're in serious trouble. That's why I've always tried to take my wife with me on trips as much as I possibly can. We're going to the poor house, you understand, paying the airlines; but I think that it's useful for the young JAG wives to see the older woman, the wife of the TJAG, and see that she doesn't have a pointed head or anything like that. I'm a little prejudiced, but I think my wife is a nice lady to talk with them, and I think she does a better job than I do. Anyway, I guess

we'll just have to wait and see about that. That's just one of the things I think the all volunteer Army, or whatever you want to call it today, has called for.

Q: What would be your view if the recruiting effort changed to stress service instead of obtaining an attractive job, that is service to country and service to the Army? Would we be able to recruit that way?

A: I don't believe we'd be able to recruit that way. The whole business is Madison Avenue PR. We talk about jobs, you know, it's Army, Navy, Air Force, Marines, it's a good place to start. You can learn a job. What do you like to do? Do you want to be a cook; we got a cook school, we'll teach you how to be a good cook. And, even if you're not going to stay in you'll learn how to be a good cook. A good cook can get a job anywhere. That's what all these people are telling the civilians.

We do a little bit of that in the JAG Corps. We are very prone to say you can get more experience in the JAG Corps than you can outside, and even if you don't want to stay it's a good place to start. Right? We don't say it in quite those words, but that's what we're trying to say. They just come right out and say it on the TV;

Army, Navy, the Air Force, Marine Corps, it's a good place to start.

I don't think you can go out and recruit the people for service, though, like that. You can some, but I don't think the numbers we need we can recruit based on service. I think you have to talk money, benefits, security, that sort of thing, and that's what we do. We even give soldiers little pieces of paper to go with their LES to impress them with how much money they're really making, real military compensation, RMC. Explain to them the tax advantage, their pay would be \$200 a month less if you had to pay taxes on certain things, whatever it is. It's a PR effort to convince soldiers that they're making more money than they think. Why do you want to do that? It's a good job; you can make good money in the Army. And that's not service oriented at all.

Now, we want people to be service oriented, but I don't think that's how you go out and get them. I think that's how you lose some of them though. When it gets to that conflict between some possible disappointments about assignments and having to move and this sort of thing, the disabilities become apparent and I think that's when we start losing people because they're not

service oriented. They're job oriented.

Q: Sir, as XO, any comments you'd have on the selection of General Officers, key 0-6 positions?

A: You mean is that a good one to get selected from or something like that? Is that a good job? Is that what you're saying?

Q: No, sir, how does it happen? What's the process?

A Oh, you mean, how do you get to be a General in the first place?

Q: Perhaps an insight on events when you were XO.

A: Well, I have to tell you, you're going to be disappointed because as the XO I didn't know any more about what was going on than you do. You can talk to John Bozeman if you want to and ask him, and he can't tell you anymore than he can because you don't get an opportunity to see. Certainly, when I retire we'll select a new TJAG and TAJAG. Every JAG Colonel with a years service or better or higher is eligible, is in the zone of consideration to be TJAG or TAJAG. Logically speaking, though, you ought to just lay a bet and go with the idea that the next TAG and TAJAG will be two of the general officers now on active duty. That's a good bet. They're not going to dig down and pick up some colonel.

Assuming that what I've said is correct then

there will be one brigadier, one colonel selected to be the new brigadier general to bring us back up to six generals. It's at that point that you're talking about, I think. How did you get from colonel to the BG? The people always look at your efficiency reports to see what they're like and always look and see what kind of jobs you've had, and whether they're considered to be good ones or tough ones, and things of that sort. There's also an awful lot of luck involved in that. I don't know how much you read in the paper recently about our Reserve Colonels Board, but of over a hundred lieutenant colonels who were eligible, less than two per cent were selected; three people were selected. As it turns out, all three of them served under and were rated by the president of the board. If you can't read hanky-panky into that you better get you some new glasses. But, now, that's the wrong kind of luck.

If I convened a board today to make some new lieutenant colonels and you two guys went before the board and I said, "These are two guys under consideration and I want you to pick one of them." If I just happened to pick the guy who knew you but didn't know him, you've already had a little bit of luck to start with. People tend to go with the

known as opposed to the unknown. That's human tendency.

Or, who knows, maybe the guy that I select as president of the board is an absolutely close friend and has absolute confidence in your last rater. Hell, if old Joe says he is a good guy, he's got to be good. There's all sorts of things like that that come about. Even the timing of it is crucial.

For example, if you are going to make one BG this time, there are several colonels - you can get out your date of rank roster and take a look at it -- if they don't make it this time they're not likely to have another chance. The timing will be such that there just won't be another one for awhile. That's a little bit of luck. How could they have figured this out 25 years ago when they came on active duty what month or date to pick? So, there's just all kinds of luck involved in the process. You can tell that because, statistically speaking, in the General officer ranks, the people who are going to get in trouble are going to the BG's, not four-star Generals. They've weeded out most of the bad or the weak BG's over a period of time. Not very many people know that but we do. We have a regular group, The Assistant JAG, the A-

DCSPER and the Deputy Inspector General, commonly called the TROIKA, and they're the ones that consider the misdeeds or alleged misdeeds of General officers and advise the Vice Chief of Staff thereon as to disposition. I used to sit on the TROIKA.

When I first became a BG, The Assistant JAG for Military Law in the Pentagon came over from the Judiciary, and I was told that one of the things that we did was to review IG investigations of Generals, and took them to make recommendations and to the Assistant JAG. How big a deal could that be? There aren't many, is what I expected. But, there were quite a few. We make mistakes when we select anybody for anything, let's face it.

This present basic class I think only has about fifty active duty Army people in it, maybe sixty. If it had a hundred, in twenty-eights years from now there'd be one of them on active duty. The others will have gone somewhere. Some of them wouldn't stay and of those who do stay some won't get promoted to Major and they'll get out. Others will become immobile and their wife doesn't want to move and they'll get out. So, they'll be one of them left in twenty-eight years.

Part of that's a weeding out process. And

that weeding out process starts immediately. You've gone through one gate already, at least, and that's from Captain to Major. Not everybody who was your contemporary in the same zone of consideration as you, got selected for the grade of Major. Probably 20 per cent did not. And then the next year there was another 20 per cent that were not and if that happened two times then they're no longer here. This weeding out process goes on and, by the time you get up to be a colonel, for example, the system has managed to eliminate a lot of mistakes that were made when people were selected to be First Lieutenant from Second Lieutenant. You have to believe that when all the Second Lieutenants are promoted to First Lieutenant there's a lot of people in there that are simply not going to measure up over a period of time to the standards that the Army wants to impose. We weed out a lot, but we don't do a perfect job.

Sometimes, as a matter of fact, the very qualities that make a young officer attractive to superiors and well liked and, of course, well rated on his OER, are the very things that you don't tolerate when you get to be a brigadier general. For example, there are some people who just get things done and when you're a youngster and you're

a captain or a major and the colonels and the generals are sitting around and they want something done and you get it done, they don't ask any questions about how you got it done. They just know it got done and they're satisfied. They have people looking over the top of their shoulder too. So, if you happen to be one of those guys that's cheating a little bit, breaking the laws and stealing and lying, or whatever to get the job done, that may well not be detected until you've moved pretty far up the ladder.

But don't forget now when you get to be a brigadier general; by this time you've run into lots of OERs and lots of people, some of them good and some of them bad. You've probably caused some people not to get assignments that they want. God only knows what you've done and what kind of slight you rendered to somebody and you didn't even know it. And they don't forget.

Just here recently they were looking at a case of an officer who was alleged to be a racist. The good ol' IG mobilized into action and started interviewing a large number of people. Everybody they talked to said no, not this guy; no, sir, not this guy. And everything was going fine for this fellow until they got to one lieutenant colonel, a

passed over lieutenant colonel, a two time passed over lieutenant colonel because of an OER written by the colonel. And he said, "No, he's not a racist, but did you know he'd been screwing his secretary?" They said, "Really?" He was. Now this has come to light and the Chief of Staff of the Army does not like people who commit adultery. That's just a small example.

Generals have to have a lot of luck to get there in the first place, and it's just a large mish-mash of ideas of what is luck, what kind of luck it is. Timing is so very important.

Larry Williams sat on a selection board when I was selected to be a brigadier general, but he didn't put himself on the board. The boards were done differently in those days. There were 15 generals on a promotion board to select all kinds of generals, not just JAGs. Larry Williams just happened to be a JAG officer on that board and I worked with Larry Williams and he thought I did a pretty good job. I don't know what he told somebody. There's no way for me to know. But I would look upon that as being a plus from my point of view as opposed to having maybe somebody else, or maybe no JAG at all.

So, I'm not sure I can really tell you what

makes a good General or not makes a good General, what makes him get selected. The only advice I could give you is the same advice I give lots of folks - actually this is a piece of advice that Larry Williams has used in the past and I absorbed some of it; if you're given an assignment someplace, go out and go do it the very best you can. Give it your all and hope for the best. I don't know what else to tell you, really.

Q: Sir, the last question before we move into III Corps time. Again, as an XO, any particular experience that helps out when you're in that role?

A: Oh, sure, yes. During the time that I was the Exec there was a study going on called "Steadfast," and "Steadfast" had several aspects. Previously it was Department of the Army, Continental Army Command, commonly called CONARC, and then there were the armies. The "Steadfast" program, among other things, was trying to figure out how they could slice up operational business and training business and that's why you have FORSCOM and TRADOC.

But it did some other things. It also got the numbered armies basically out of the active army's business and into the reserve business. It also was the time when we had some actions going on in the building generated by General Abrams to reduce

the size of the headquarters, to get more troops out in the field and out of the headquarters. I think they started with a 15 per cent cut and was later reduced to 10 per cent.

It was also at this time that we were working on a reorganization of U. S. Army Judiciary. Why? Because as a part of the reduction program that General Abrams had ordered, I attended a number of meetings, and people kept talking about field operating agencies and field support agencies, and I didn't know what they were talking about. So, I asked a guy. I said, "What the hell are you talking about? What are these things?" He said a field operating activity is one that is independent and does things on their own. A field support agency is one that does the Pentagon's business but they just happen not to be located in the Pentagon. "Well, what's the difference?" I asked. He replied, "The difference is that field operating agencies are not counted in headquarters strength and field support activities are."

I said, "Hmm, let me get this straight. You mean that our U.S. Army Judiciary is not counted in our strength?" He said, "That's right." I said, "Well, what would happen if I moved some people from the Pentagon to the U.S. Army Judiciary?"

Would that be a reduction in OTJAG strength? He said, "Yeah." So I went back and I told George Prugh, "I have a solution; let's pick out some things and we send them over to the Nassif Building." He said, "You'll never get away with that." I said, "That's what the guy tells me, let's give it a try." So, we moved Contract Appeals, a portion of the Military Justice Division relating to location of witnesses, Congressional correspondence, some part of the Procurement Office, Regulatory Law, and I believe that was all at that particular time. We just transferred them all over to there. Then, of course, we had to reorganize the U.S. Army Judiciary, because the U.S. Army Judiciary was nothing but the Trial Judges, the Appellate Judges and the clerk of court and something called EENT, Abe Nemrow's office. That was the U.S. Army Judiciary.

Q: Was it a FOA at that point?

A: Yes. So we moved those people over there and that caused our strength to go down in the Pentagon. I revised or reorganized the U.S. Army Judiciary and had the U.S. Army Judiciary as a part of this new organization, and I was looking around for a title. Fran O'Brien was my assistant Exec, and I was real busy one day trying to get all this done, and I

said, "Fran, I need a name for this damn thing; give me a name." He said, "I don't know." And I said, "Well, you know, the U.S. Army something." He says, "How about the U.S. Army Legal Services Agency." I said, "You got it."

U.S. Army Legal Services Agency; that's how the name was born, and General Hodson didn't like that at all. He thought that was mixing apples and oranges to mix somebody else into the Judges. I convinced General Prugh that if we didn't do it we were going to lose the spaces. So then I wrote up a new TDA for this new thing called the Legal Services Agency because I wanted to get this all done before the time was cut. It had to be approved.

General Hodson was just over there because the Secretary of the Army agreed that we needed to upgrade that and get a General over there. So, General Hodson, since he was already a two star, was simply recalled and he went over there as a two star.

When I wrote a TDA, actually Fran O'Brien did the work, I told him to put down the commander as being a two star General. General Prugh got a little bit upset about that. He said, "No, we'll never get more than a BG." I said, "Look, you let

me put down a Major General, and so when the DSOP people call up and they want to have a meeting about this, they'll say, 'You can't have a two star General over there; a brigadier is the most we'll give you.' I'll just cry all over the place and then after awhile when they seemed determined that they're going to give us a BG I'll cave in and say, 'Okay, when do we get the BG?' Otherwise, who knows, maybe we'll get the Major General slot." He said, "Try."

I submitted that TDA, it went down to the DCSOP -- actually he was called AX 4 in those days -- and nobody ever raised a peep, didn't ask one single question. It came back approved.

So, we got a Major General; it's still a Major General slot over there, although it's always been filled with a BG.

At the same time, then, when they were reorganizing the armies to take care of reserve units, they were going to have some people out there that were supposed to teach things like the on-site stuff that we do today, and they were going to be called "Readiness Regions." There were going to be 12 JAG officers out in the readiness regions to provide instruction for reservists. I went down to the DAS's office one day and I said, "We're

having a trouble with spaces and things like that. I think I know how you can save a few spaces. I mean there's only six if it's of any interest to you." "Oh," he said, "Six, we'll take anything - - what is it?" I said, "Well, instead of having 12 JAGs out in these readiness regions, why don't you put six JAGS at the JAG School and then they can go out and conduct necessary training and you can save half the spaces, you don't need that many." What you have to do is give us a little TDY money. They said fine, and did that. That is how the on-site business was born here at the JAG School. When all the smoke cleared away, we took a 10% cut in old TJAG and the JAG Corps wound up with six more spaces than we had before we started.

Q: Does anyone know that, sir?

A: Not until now. Don't tell anybody. We have to be careful who we tell that to. But that's exactly how it happened, just that simple. So, of course, I remember that. That was a lot of fun and we, I think, did a pretty decent bit of business there for the JAG Corps.

Gosh, I don't know what else. I learned some things when I was the Exec for General Prugh. General Prugh was a nice fellow, but he could never say no to anybody and consequently he would agree

to give both of you guys the same job. You'd see him at Fort Lee, and you'd say, "Hey, I'd like the job, I'd like to be the Deputy at Fort Riley." He'd say, "Sure, I'll take care of that." And he'd see another at Fort Bragg that would say, "I want to be the Deputy out at Fort Riley," and he'd say, "Okay." Of course, he'd really do this with Colonels, because that was what I would do as the Exec/ And then when they found out two of them had the same job, they'd start calling and he'd say, "Straighten it out." "General Prugh, which one do you want to have it?" He'd say, "Well, see if you can't work something out." So I was constantly trying to shift people around. We have to be very careful about where this goes now. We may have to put a cap on this for the future, because I wouldn't want to hurt George's feelings at all. He was a fine man, is a fine man, but he did have a little bit of a problem saying no sometimes. So that kept me hopping from time to time. It made me very gun shy when talking to some of the Colonels because, unlike my situation in the 1st Infantry Division, when I figured that I had backing, I never felt that way during this period of time, so I had to be very sensitive to some of those little pressures.

General Prugh used to have a system he called "Prugh-grams," which he had originated when he was in Europe. He wrote notes all the time and his secretary, Kathleen Westhorn, commonly called "Field Marshall Westhorn"--she was the JAG Secretary for umpteen years, many, many years--and she numbered them all, kept track of them in a notebook, and eventually out in the Exec's office there was a big board covered with acetate where we kept track of them. And he was very prolific. George Prugh didn't know when to go home and when I first became the Exec he'd hole up in his office writing his Prugh-grams, writing notes. He just simply would not dictate. So it took him much longer to get through his process because he'd do it all by hand. It would be seven or eight o'clock, something like that, and he would say, "What are you doing here?" and I would say, "Well, I'm waiting on you." And he said, "Don't you have anything to do?" and I said, "No, sir." He said, "Well, if you don't have anything to do, you ought to go on. Don't wait on me." I said, "Okay." "Well," he said, "I'm about through anyway." So we left. A day or two later; five o'clock rolls around and I've wrapped up everything and sent everybody else home. He's in there writing and I

stuck my head in the door and said, "Well, see you tomorrow, sir." He said, "Where are you going?" I said, "Well, I haven't got anything to do, so I'm going home." He said, "Aren't you going to wait on me?" "Yes, sir."

One thing I do remember too that's kind of funny; George Prugh really liked for things to get done in a hurry and sometimes he was just a little bit impatient. An incident arose in which Reid Kennedy--he was the judge in the My Lai trial--moved from Fort Benning to Fort Bragg for his retirement home. And I remember we used the system then that we use today, that the recommendation for an award for anyone in OTJAG, the School, Claims Service, USALSA, proceeds as follows: the Exec puts a little slip of paper on top of it with summary information, and puts his recommendation down. It then goes through The Assistant JAG and then into TJAG for a decision. I remember when the award recommendation came in from the Judiciary for Reid Kennedy. It was for a Meritorious Service Medal. I thought, that's a little odd. I wonder why they're not giving him a Legion of Merit because he's going to retire. So I checked it out to see if everything was administratively correct, whipped it on over to General Parker. As it turns out,

General Parker approved it. I never knew that. I never knew that because there was a lapse of a couple of days in there, apparently, and I went on leave.

Once it was approved, it was returned to the originator. Reid Kennedy had already left for Fort Bragg for his retirement. It was there he learned that he was to receive the Meritorious Service Medal. Now, Reid's a funny guy. He said, "If that's all you're going to give me, I don't want it. Just send it back." And I'm not sure exactly why General Hodson did that, but somebody will have to ask him. In any event, Reid Kennedy called George Prugh. Early one morning, George said, "Well, I just don't understand it." He said, "We should give him the Legion of Merit." He said, "Take care of it." So I decided, I'll just surprise him. So I went down the hall to see the Adjutant General, one of my old 1st Division friends. I said, "Guess what's happened? How are you going to take care of this?" He said, "Oh, I think they missed a few days in there." He said, "Well, then why don't we just cancel that one and we'll give him a new award, but it won't be for the same period. It will be for a couple of days longer." I said, "Okay, how do we do that?" He

said, "Well, we have to have a board." And I said, "You don't understand. I need this in a hurry." He said, "Oh, we all have to have boards, but let me handle it." I went back down to my office and it couldn't have been more than an hour later and one of the JAG guys walked down the hall, had the certificate, award, the orders, the medal, everything. And so I took a buck slip and slapped it on top of all that and I said, "TJAG, sorry this took so long." Prugh put it in his in-box. He said, "How'd you do that?" And I said, "You're not supposed to ask questions like that, General Prugh--how I get things like that done. I'm just apologizing because it took so long."

Q: Sir, what do you see as the pressing duty of the XO?

A: I've always thought, and I have tried to use the XO in this way, that he's my third arm. I've got one guy down there--that's the BG for military law--and he's looking after the substantive side of things; and then the other BG is looking at the substantive business of the civil law side.

The Exec, in my view, is working in personnel; I look to him to have insights about colonels and, in general, understand what's going on with PP&TO. Secondly, and probably even more importantly, he's

got a third of the office operation on the administrative side. I look to him to take care of administration to see that nothing goes wrong administratively. He should look over the budget, look over the word processing center, see to the needs of all the people as far as rugs, typewriters, whatever; make sure that orders get issued for people to go places and all that. Take care of the administration so that it's not a problem.

We've had some darn good Exec's since I've been there, to include the present one, and that's what they've done, too. That does a lot to make the administrative operation a non-problem. Personnel business I have to be involved in. I have to make decisions about where people will go. But, for the most part, I never have to make a decision in the administrative area.

The Exec figures out what needs to be done, he knows what needs to be done, and he stays on top of it; it gets done. I never look at it unless he comes in and tells me that he thinks there's something that I ought to know about. That's not very often. So it really relieves me of the necessity of dealing with those things and I can turn my attention to the personnel side of the

house--policies, and, in some cases, the substantive side itself. Of course, TAJAG is sitting over there to try to overlook all three of those operations to see that things are going well and to be a buffer and advisor. When I leave, then he steps in and we've always had a very good relationship, and you never miss a heartbeat. It's exceptionally rare that I have ever called the Pentagon, except for personal business, while I'm off on a trip. Rarely did I ever call on official business because I feel there is no need to do that. I have trust and confidence in General Overholt, General Fugh, General Hansen, John Bozeman, Ken Gray, and all the others, and I just don't feel any need to do that. Besides, they need to learn how to operate that business on their own. John Fugh is back there running the shop right now because Hansen's gone, Overholt's gone, and I'm down here; and so John Fugh is getting a little chance to go see somebody, the Secretary or the Chief, or whatever has to be done, and it's good for him. Who knows, maybe one day you'll be sitting up there in one of those jobs, I don't know.

Q: Sir, you said that you assigned yourself to Fort Hood. Regarding colonel's assignments--is that a

troubling area for the Exec and the TJAG, PP&TO?

A: Well, it's a troubling area when you promise two people the same job, when you will not make old Colonels adhere to the usual rules that you make everybody else adhere to. And, again, George Prugh simply would not be firm in some instances involving old Colonels who had been in the same place six, seven, eight years. He just would not move them. They'd say, "Well, I'm going to retire." And I'd say, "General Prugh, let them retire." "Well," he'd say, "he's an old soldier and we need him." "General Prugh, I will go find you a Lieutenant Colonel that wants badly to be a Colonel and I'll send him down there and he'll do just as good a job." But he wouldn't do that. So it was a problem, yes. We don't do that and haven't done that for six years. Just like O'Roark, who is coming here.

A year ago, a year and a half in about January of '84 I wrote a letter to Del O'Roark and I said, "Del, you've asked to stay at Fort Hood the fourth year and I'm going to let you do that. But I want you to know you will move in the summer of 1985. If there is any reason that you can think of which would cause you a problem if you moved in '85 instead of moving in '84, let me know now."

I started that - not for the good guys like Del O'Roark, but for some of the not so good guys, who whine and cry. So when I write them a letter, I spell it out. I don't allow people to homestead and have not now for six years. You're going to be here at the JAG School, you're going to be here three years, if I was around. I might consider letting you stay four years, but I probably wouldn't. I probably wouldn't in your case; it would have to be an extremely good reason. Why? Because you're a FLEP Officer, a West Point graduate, and under the circumstances, you're a little bit behind some of your contemporaries in the JAG business, and so I would not leave you at the academic institution any longer than the normal tour. So, if I'm going to make you observe the rules, three years, maybe four, if we can work it out. The same rule ought to apply to Colonels. We just can't let them homestead out there for that period; the longer they stay, the less chance other people have for getting those jobs; people would like to be the SJA at those places and they should have those opportunities. We don't have that problem right now.

Q: Sir, what significant issues did you face down at II Corps at Fort Hood?

A: You asked the question, did I assign myself to II Corps; yes, I did. Why in the world George Prugh ever asked me to be his Exec, I don't know. But he asked me to do that. General Prugh said, "I would like you to be my Exec but I want to ask you a question. Are you a Parker man or a Prugh man?" I said, "Sir, I'm neither one. I'm a TJAG man." He said, "Okay." Why in the world, after all that, he decided to have me as his Exec, I don't know. But he did. I said, "I'll be perfectly willing to do anything you want me to do, but you understand now that I came into this building in 1969 and I just really don't want to stay here forever. And so it seems to me in '73 that will be four years and that's enough." "Well," he said, "will you be my Exec until then?" I said, "Sure, if you want me to I'll be glad to." "Well, that's fine," he said, "when '73 rolls around you can choose your own assignment."

So I chose Fort Hood. I don't know exactly why. I'm not sure I can articulate all those reasons why, but XVIII Corps was not open at the time. There were Corps open in Europe, but I did not wish to go to Europe at the time and I had not been a Corps SJA. I thought I would like to be the Corps SJA, so I picked Fort Hood, sight unseen.

Never been there before in my life. So my wife, my children, and I got in the car and we drove to Fort Hood. We drove in on Highway 90, the old Highway 90, going through Killeen, Texas. Nothing but pawn shops, motorcycle shops, used car lots, beer joints, and trailer housing units. My wife said, "What in the world did you get me into?"

But it was a delightful place. I'd recommend it to anybody. I had three Generals at Fort Hood, all three quite different. That gave me another chance to see how some other people did things. My first General when I got there was a man named Sinnot. Phillip was his first name; his friends called him Phil. And he'd been there awhile. My predecessor was Vernon Newman. First, I looked around a little bit. The first real thing that I did, though, when I got to Fort Hood, was get all the officers together. I said, basically, I'm new around here and I need to know what's going on. So I want each of you to just jot down on a piece of paper what you do, how many of those things you do, why you think you did it that way, and tell me if you think there's a better way that it can be done. In the meantime, I'm going to read all the office policies around here while you're doing that. Then after you give me those slips of paper and I've

read all of the policies, the Fort Hood directives, and things like that, I may decide to make a few changes in policies. But I want to tell you before I do anything like that, I do not want you to leave here with the idea that Vernon Newman did not know how to run the SJA Office and that I'm the only one that knows how to do that. That's not why I'm going to do that. I'm going to do that because Vernon Newman is Vernon Newman, and Hugh Clausen is Hugh Clausen. He doesn't look like me; I don't look like him; I don't do things the way he does them; and he doesn't do them the way I do them. We're just different people, that's all, and it doesn't mean that he's wrong and I'm right. And besides that, Vernon Newman has been down here for two years and for all I know, conditions have changed since Vernon Newman decided to have a policy at one time or another and it may be time to change that.

I recommend that kind of technique, incidentally, to you. I think it works pretty well. I mean there are all kinds of techniques; some of them may appeal to you. That just happens to be one I like and I've used it before and it worked pretty well.

I found lots of strange things. I found that

I'd get a piece of paper from the Administrative Law guy. He would tell me he did so many Administrative Law gadgets and that he prosecuted two Special Courts and wrote three wills. Then the guy in Legal Assistance would tell me he wrote a zillion wills, a million powers of attorney, he defended two cases, and wrote a pretrial advice in six cases. I got these guys together and said, "You know, I just don't understand this. You're the Legal Assistance guy. What are you doing handling cases? I thought you're supposed to be a Legal Assistance fellow." Well, to make a long story short, somehow or another, the office organization had sort of deteriorated a bit and if a guy's shadow crossed the fellow's door, he was the client.

I decided that I had to change that right away. I mean, there has to be some organization. You have to know who's doing what to whom. So the first thing I did was to create a Defense Branch; there was none at the time. We didn't have TDS then. I created a Defense Branch and then I issued some guidelines to the people in the Defense Branch. I told them when they were authorized to establish an attorney-client relationship. I'm not sure I could give you all of those off the top of

my head, but they were such things as when a soldier comes to see you and says he's being investigated by the CID. If a soldier comes to see you and says I've been charged with robbing a bank, you'll establish an attorney-client relationship for that. I had a list of all this. Other than that, you will not establish an attorney-client relationship with anybody for anything. What I was really aiming at were reports of survey and that kind of stuff.

I wanted the defense guy to do defense work and then I issued some other instructions after that. I told the people in Legal Assistance, "You do legal assistance." I told the guys in Ad Law, "You do Ad Law ;" Military Justice Branch, "You do Military Justice stuff." There were a couple of instances I had to set down on a couple of defense people because they were writing wills. They said, "Well, this is my client." And I said, "Well, hold on just a minute. You've been given an order that you will establish an attorney-client relationship only under these circumstances." He said, "Well, he came in and he was being investigated by the CID." I said, "That's fine. If you talked to him about that, I don't want to know anything about it. But why the will?" "He wanted a will and he's my

client." I said, "Wrong answer. I didn't send you down here to write wills. It has nothing whatsoever to do with a criminal case, and besides that, I'm not even sure you know how to write wills. I've got some guys over in that other building and they're supposed to know how to write wills; anyway, that's what they're over there for. So you send him over and let them write his will."

We finally got the place organized around a little bit. It was an interesting time. My deputy was a major when I got there, whose name was Red Simon. He'd been passed over for Lieutenant Colonel and got picked up a little bit late. In addition to Red Simon, I had 26 captains. I was the only guy in the office that had any military schooling, other than the basic course here at the JAG School. A number of my captains were draft dodgers in uniform, a number of whom actually really disliked the Army, but they had been willing to trade three years in a legal billet as opposed to the possibility of carrying a rifle in Vietnam at some unexpected time. So there were just many management problems there. I had no middle management whatsoever to help, and that caused me to have to do a number of things myself that I would have preferred to delegate to somebody else.

There was nobody to delegate them to. They just weren't there or at least I didn't think they were there initially.

But I had some good people there. I don't know if you know Jim Long, over in the 21st Support Command now. Jim was one of the captains that I had. After a short period of time, I came to realize that he was a first class guy and so I just made him the Chief of Military Justice Branch, even though there were a couple of other people around that outranked him. I did this because I had confidence that he could do the job and I had to delegate something out to somebody. I just couldn't individually supervise 27 other people all the time. The span control was too great.

We got that organized and some of the people left; some under heavy pressure. I fired a couple of people down there. I fired one guy who had a wife and two children and one in the chute, as they say in Texas, and he's dallying around with my court reporter. What made me really mad about it was that I had selected the young lady from a group of several 71-Limas and sent her off to the Naval School of Justice to be a court reporter. She was number one in her class and here he is screwing around with my court reporter that I needed so

desperately. I called him in, and I said, "Look, it has been reported to me that at odd hours of the night, midnight maybe, you have been seen over in the female billets area holding hands with and kissing my court reporter." He said, "What business is that of yours?" "A lot," I replied. He said, "You're just saying that because I'm an officer and she's enlisted." "You don't seem to understand," I said, "A married man is not supposed to be seen under those circumstances with a single girl doing those kinds of things." He said, "There's nothing wrong. We haven't done anything wrong." And I said, "If you were a junior executive working for General Motors, married and so on, and you were seen doing this with a gal from the typing pool, do you believe that the hierarchy of General Motors would approve of that?" He said, "They wouldn't care." I said, "You've got a lot to learn, fellow."

So I got both of them in the office and I tried to explain this to them. It was like talking to the wall. They had no idea what I was talking about. This fellow had just a few months to go, and so I said to him, "Would you like to voluntarily resign short of your three year commitment?" He said, "I'd be happy to get out,

but who's going to do that?" I said, "Just sit down right there." I said, "How about you, young lady? Would you like to be transferred to some other place?" And she said, "No." I said, "Well, you're going to be." And so I called up Larry Williams, while they were sitting there, and I said, "Larry, I have a favor to ask. Captain whatever his name is is going to put in his resignation and I would like to have it approved." And I said, "Here's why." He said, "You send it and it's approved right now." I said, "Now, I've got this young lady here and I think she needs to be transferred somewhere right away and we'll just break up this situation." He said, "I'll call you back." I said, "You folks just sit right over there. By the way, why don't you type up your resignation." So he typed up his resignation. Larry Williams called me back in about an hour and he said, "The young lady is being transferred to Fort Gordon, Georgia, and she's to be there tomorrow." I said, "That's good. Give me that number." He gave me the number. I said, "Young lady, here's your orders. You'd better get over here and start doing something because you're going."

I got his piece of paper and I said, "Now I'm

going to give you one last order. You will not see this young lady. I don't want any more of that stuff. If you don't think that's a legal order, you just go right ahead and do it and we'll see if it's a legal order because I just will not tolerate that kind of conduct by an officer." So he gave me his piece of paper. I sent him off. He took some leave to go look for a job, got himself a job and his paper was approved. He left early and the young lady decided that she really didn't want to stay in the Army and so she came back and asked if I could delay her orders long enough for her to see if she could get out and I said, "Sure. That's okay by me. You go ahead and do it if you want to."

So I got rid of him and then there were a couple others that had some short periods of time to go that were really very ineffective officers and their regular cycle came up and they left and I got an influx of some new people and things began to get a little bit better. I felt better about it and I thought the operation started meshing together. It just shows you, under those circumstances it probably shouldn't have worked as well as it did. There were three or four of the young captains that I had that were just very good

and I heaped a bunch of responsibility on them and in the main they came through with flying colors and just did some things you probably wouldn't have expected them to be able to do. They jumped right in and they worked really hard and it did work. That's all I can tell you. It did work and I think we got to be a happy family down there. Things were going pretty well. I was really pleased with the office when I left down there. I thought I left Squeaky Bill Niemest a good office to take over.

Q: Sir, what did you do in the area of training these younger captains to be effective supervisors?

A: I used to sit around with them and I had a meeting every Monday morning and I, despite the fact that the Army Regulation said you weren't supposed to have a log, I had my Chief Clerk create a log. I logged everything in and out because I wanted to see what was coming in and going out. And I told everybody at the outset that I wanted to see--it wasn't everything; I did lay down some exceptions--that I wanted to personally see almost everything that was coming and going, and he logged it in and logged it out. And I said, "You'll find very quickly that I'll determine that there are a lot of things that I don't want to see. I want to try to

find out what kind of business we're doing around here, where is it coming from, who's handling it, and how long it takes. I just want to see what's going on." About the first thing I said was, "I don't want to see the Reports of Survey. I don't want to see those." So they knocked that off. Then I started pruning the list as quickly as I could. I told the captain Branch Chiefs, "Why don't you do this and only show me what you think is exceptional." It was a gradual thing like that and talking to them at the Branch Chief's meetings on Monday, we would have a little session and I'd say, "Well, how would you handle something like this?" I would say, "Let me tell you why I'm doing some of these things and then maybe you can use some of those techniques yourself."

One thing Jim Long was very chagrined about; I made him take a sheet of paper and put down all the things, charges preferred, confined and everything, and list every case and pencil in everything across, and then when he got to the end where the record of trial was mailed, if that was appropriate, or if it was a Special Court, LSMFT the accused, just draw a line through it and we'd just keep a clean sheet of paper. I finally told Jim Long after some period of time of what I was

doing. I made him bring me that piece of paper himself every Monday morning at this meeting. When the meeting was over I would discuss it with him and I said, "Why the devil haven't you got this thing taken care of down here, Jim?" I said, "That's too long. You have to keep better track of this stuff." He would say, "Yes, sir." After a little while of this, I'd say, "Well, look Jim, we have the meeting on Monday anyway. Why don't you just send me the piece of paper over and I'll look at it." I made it a point from time to time to call him up on the intercom and say, "Hey, look on the Jones case here. Now you're just not moving this thing fast enough. You've got to get busier." What I didn't tell him--what I eventually did tell him--is most of the time I never looked at the damn thing. I'd take it out of my in-box and lay it on my desk and leave it a day or two and throw it in my out-box eventually. But he thought I was looking at it and he didn't want to be asked any of those questions anymore. After I thought I had asked enough questions that he was really going to be scrutinizing that thing very carefully, I didn't bother to look at it anymore. That's just a little technique I learned. I'd try to talk to them about little things like that and I even checked up. It

was very bad; just walk over and open up a filing cabinet, pull something out, and look at it and see what it is. They responded really very well. I was very proud of those young folks; they really did a great job.

Q: Sir, the personalities of some of the CG's down there, how did your approach vary depending on their personality?

A: Well, the first guy was Sinott and I don't know how you approach a fellow like him. He was very prone to do things without checking with anybody on his staff, not just the JAG--anybody.

For example, I picked up the afternoon paper after I'd been down there a very short period of time, and read "The Mayor and CG agree on Fort Hood Clean Up." The 1st Cav is going to be assigned to Killeen, 2d Armored to Harker Heights and the III Corps troops to Copper's Cove to pick up trash. I said, "Gee." I called up the Chief of Staff and said, "Hey, Chief, when did all this happen?" He said, "You know as much about it as I do. I just read it in the paper myself." He'd gone downtown in some meeting with the mayor and the mayor said, "Hey, you know, we need to clean up around here. Pick up old used refrigerators, pick up trash, and paint and fix up and stuff." He said, "Sure. We

have lots of troops out there. We'll do that." Holy Smoly! I mean it's already done now and it's kind of like the Chief's story about Henry Ford. What are you going to do now? So our effort was directed at trying to minimize our risks. He was almost impossible to deal with. I don't know, he was retiring, but he was very difficult to approach.

Then he was replaced by General Burdett and I think I mentioned him. His father was a JAG. He was very easy to talk to; a very fine man, and that relationship was just perfect. Except, sometimes he asked too much. So that was one personality to deal with.

And then he was succeeded by General Shoemaker. General Shoemaker is an exuberant go-get-em, rock 'em, sock 'em, get it done guy, really a vibrant personality, but approachable as far as the JAG was concerned. I don't think we ever hesitated to tell him, at least, I didn't hesitate to tell him, "Well now, wait a minute, General. You can't do that thing that way." I think he liked that. But he was a little bit of a maverick, as well. Every once in a while, at a staff meeting, somebody would come up with a proposal or recommend a course of action and he'd look at me

and he'd say, "Judge, do I have to do it that way to be legal or can I do it some other way?" It would be something like, what color are you going to paint the building? Red or blue? And I'd say, "Whatever you say, General." He'd say, "Don't paint it red; paint it blue. I just want you guys to know who's running the railroad around here." He would say, "If I always accept every one of your recommendations, pretty soon you'll think you're running the railroad. I'm running the railroad."

General Shoemaker was the best guy I've ever seen in administering an officer's Article 15. He did it in his office, sort of like a summary court hearing, if you will. On occasion, he would listen to an appeal from a senior enlisted member. He was extremely good. He was always interested and alert. He did his homework beforehand. He found out what the thing was about and got all the information. He'd listened very patiently; he always asked some very sharp questions, and he never failed, in the times that I knew him, when he was all through to say, "Well, you've raised some very interesting points and I want to think about this. I'm going to think about this and I'll let you know my decision. I want you to understand I'm not trying to tell you I'm going to give you any

relief. I may, but then I may not, and so I want you to understand if I say no, I've thought about it." In a day or two, usually he'd call me up on the phone and say, "Judge, do it to him." He was very good. He would hear people out and if he thought somebody was really being screwed, he'd give them some relief. He did do that on a couple of occasions. He was very good at that.

Q: Sir, one of the comments through your ratings came through to the extent that you developed strong and effective relationships with U.S. Magistrates, U.S. Attorney, and concerned civil authorities. There seemed to be a very good rapport developed between you and those entities, to what extent do you have comments in that area?

A: There had been an effort under way before I got down there by Vernon Newman to try to get a Federal Magistrate on the post. We didn't have one, nobody wanted to do it. And so I pursued that and we did get a Federal Magistrate. It was most beneficial in a lot of ways. Heck, I got a new building renovated down there with everything because, you know, we needed a place for the judge to come once a month to hear traffic cases and other minor matters.

One of the first cases the Magistrate heard

down there involved a civilian on post who had been given traffic tickets a number of times and he had never been disciplined by his civilian peers. There's just not much you can do with these old people. By George, he showed up at the Magistrate's. The Magistrate looked at the ticket; he listened to the MP and said, "You got anything to say?" He said, "Yes. What about \$25.00?" He said, "You can't do that." The Magistrate said, "Make that \$50.00." The guy said, "I don't have \$50.00." The Magistrate said, "I'll give you a couple of hours to get the \$50.00 and if you don't come back with the \$50.00, I'll have the U.S. Marshal arrest you and you'll be confined in jail."

He came back with his \$50.00, paid his \$50.00. The word of that went through Fort Hood just like wildfire and the traffic conditions improved instantly. There are a lot of civilians down there. It's a big post, and they came to realize that this was not just a free preserve down there.

When I went down to San Antonio, where the U.S. Attorney was located, to try to get a Magistrate, and tried to get the judge to do it, I described Fort Hood as being the typical Texas badlands of the old cowboy movies when I was a boy. There was a no-man's land between Oklahoma and

Texas--Texas didn't claim it and Oklahoma didn't claim it--and that's where all the outlaws were and there's no law and order. That's Fort Hood. There's no law at Fort Hood. These people are running stop signs and speeding with impunity. Nobody will do anything to them. Well, it really brought some law and order to the place after that.

It seemed to me that there was another gap that needed to be closed and that was to improve some relationships with the District courts, Texas District Courts, because a lot of soldiers were convicted of relatively minor things, but they'd sentenced them to jail and wouldn't allow any kind of parole, on the basis that Fort Hood would ship them out and they'd lose control over them. So we established a system with the Parole Officers of the two counties there to monitor people who were being discharged and transferred. If they didn't want to agree to allow them to move, they'd come out and get them. I joined the Rotary Club and wasn't a member of the Texas Bar, but an honorary member of the Texas Bar. I went to all the Texas Bar meetings, and so I got to know all the lawyers and judges around there. It helped.

You know, if we ever needed to get something done, we could get help for the soldiers and that

helped out quite a bit. We had a little unofficial ELAP, when it was necessary. For example, we had a sergeant who was in Germany. He was estranged from his wife and she wanted to divorce him. He wouldn't give her a divorce unless she agreed to give him the children. So she softened the tone of her letters and, over a period of several weeks, said she changed her mind and all was forgiven, she loved him, and wanted him back, couldn't he please come home. And the dumb sucker caught a plane from Germany, stepped off the plane there in Killeen airport and the old Sheriff laid the summons on him, service of process. He needed some help; he needed some representation because he had to get back to Germany. And so I called Judge Black and I asked him if he'd have any objections if one of my soldiers, appearing in civilian clothes to represent this guy; at least to the point where he could get him some time to go out and get himself a lawyer, and he said, "Sure."

We did things like that from time to time. The Texas Bar folks didn't mind. We weren't making any money and we weren't keeping them from making any money either. So it pays to have those kinds of relationships.

Q: Sir, there was a comment about the personal bond

program.

A: Oh, yes, personal bond. Now, the Texas bond, it costs 15% to get a bond through a bail bondsman in Texas and often bail bondsmen wouldn't even show up for like a couple or three days. Soldiers were staying in jail and this just got to be a real problem. We got many, many, complaints and the question was: how are you going to solve this? What are you going to do about it? So we finally hit upon a scheme. It was a combination of a number of people. A program in Texas authorized an essentially State supported bail/bond system of personal recognizance if the Judge thought it was warranted. So Judge Black was the Senior District Judge and we got him to apply to the State for a grant of money so we could get the program started to pay the car expenses, for example. We got two sergeants and started out. They hired civilians to run their little office and the program basically worked like this. The sergeant divided it up and each sergeant would go to a certain number of jails every morning and look at the blotter and talk with the desk sergeant and so on. If there was a soldier there then he would ask to see the soldier and he'd take some forms and the soldier could apply to be released on personal recognizance. And

we would guarantee that he would show up.

The way they financed the system, was that when your trial rolls around, if you're convicted, they'd tack \$10 onto your sentence and that \$10 goes to support the administrative overhead. Bail bond people were up in arms about the soldiers. Of course, we got there before they did, for one thing, and what the sergeant was offering, as far as the soldiers were concerned, cost nothing because he got out of jail without paying a penny; it may cost him something later. Excuse me, it wasn't \$10; it was \$10 or some percentage of money, but not over a certain amount. Anyway, that's the way they financed it.

Bail bondsmen several times threatened to sue me and the CG and everybody else around here, but they never did. They had no basis. I don't know what the devil they would sue about, the State Legislature authorized the program, just for starters. What they didn't like is that we were using sergeants. They felt that if we didn't supply the sergeants, the county could not afford to hire civilians to do it, and so they'd be back in business. It was a good program. In fact, that program is still running down there and it's very successful. Dale Just went to work running the

administrative side of that. Shortly after he retired he did that. And now he's working for Judge Clausen, another one of the District Judges, a very good friend of mine, running his drunk driver program.

Q: Sir, concerning running an office that size, what do you think is the most pressing area in terms of the major sub-divisions in the office? Justice, Claims, Legal Assistance?

A: That's difficult to say because it depends on where you are. My first consideration is to take care of the big guys so that you don't get them on your back and get them disappointed with you. For example, the first thing I always do is to lay down the requirements, such as, when anything that comes from the General, the Deputy Commander, the Chief of Staff, or is personally signed by one of the other staff officers, like the DCSOPS, the G-1, or somebody like that, hits the desk, you don't log it in. The first thing you do when you receive it is pick it up and walk in my office and show it to me. No matter who's in my office, you come in and tell me about it. I want to know about it as soon as it gets here; I want to see it. If I want something done, other than to log it in and send it on, then I'll say so. Otherwise, you log it in and then, if

it's a Military Justice, you hand carry it over to the Military Justice guy and you make it clear to him when you take it over there that this takes priority over other stuff. I want it back in a hurry and I want it brought to me personally.

And so that's the first thing I'd try to always capture, take care of the CG and his staff; to be sure that they're well taken care of regardless of what kind of thing it is. At a place like Fort Hood, probably the biggest thing going on down there was Military Justice, most of the time, anyway. Realize this is '73; Vietnam has only been over with for a short period of time; we still have a draft; we have people who have been AWOL from the Army for four, five, six, seven, eight years; we've had fire at the Records Center at St. Louis and we've lost a lot of our records, so we don't know a lot of things about people we might like to know. In addition to trying cases down there, I was running Chapter 10 discharges. I'd say 150 a month or so. I literally almost had to have a wheelbarrow to go down and see the General about those things. He didn't have to see them and I told each General that, I'll advise you of this and the way to take care of this, if you don't want to do it yourself." All three of them wanted to see

them, because they liked to dabble in that stuff.

By volume-size, if you want to count that as Military Justice, an administrative discharge, Chapter 10, that was the heaviest volume of stuff there. We had, if I do say so myself, a pretty darn good system down there. We fixed up a little spiel for the PCF Commander and when he's get another group in, the first thing he'd do is get them together and he would tell them, among some other administrative things that he wanted to tell them, "This is Personnel Control Facility. You're here because it is alleged that you have been AWOL for a certain period of time. If that is true, in your mind, and you would like to leave the Army, here's how that happens. When this meeting is over, there will be some lawyers available for you to consult with individually, and if you want to apply for an administrative discharge, you must stay here, you must not go AWOL, you must stay here for three days. It takes three days to take you over to the hospital and complete the necessary paperwork. Now, at the end of that three days when we complete the paperwork, I, as the PCF Commander, am authorized to put you on excess leave, if you so request, for thirty days. Normally a case is handled before the thirty days is up. If it is

not, I am authorized to extend that for thirty days once more and if the CG approves your request, your administrative discharge will be mailed to you. Now, of course, I can't guarantee you the General will do this, but he hasn't turned one down yet that I know of. Also, you have to consider the kind of discharge that you will get and you should talk to your lawyer about that."

We never had one guy go AWOL out of PCF. If people had paperwork, we put them on excess leave; we'd mail that sucker to them. We had a regular mill down there in those things.

The first time I took over to the CG a Chapter 10 of a guy that'd been AWOL for six, seven, eight years, he said, "What? You'd just administratively discharge him?" I said, "General, you know we had a big fire in St. Louis." "Yes," he said, "I know about that." "Well, you know, I'm not really sure what records we've got up there and I don't want to ask, but I'd be willing to tell you we'd have a very difficult time prosecuting this guy and convicting him, and we don't really want him in the Army anyway, so why not let him out? And you can judge the characterization of the discharges as you see fit." Same thing happened when Shoemaker came in. He said, "What?" But we ran those rascals.

I mean, literally, I had a sedan and a pick-up truck that the Claims people used, and I used to put those things in those big red accordian-looking manila things--you know what I'm talking about? It was not uncommon for me to go down to see the General and have five or six of those filled with papers. One day my sedan was some place, I don't know where, and so I rode down in the pick-up truck and I had so many I had to get the driver to get out and help me to get them in. Well, the Chief of Staff happened to be looking out the window and we met on this day and he said, "I knew it. I knew it. One of these days you'd have so many you had to get a truck."

Q: How can you use a Deputy, sir?

A: I've used deputies in different ways, depending upon who the Deputy is. My Deputy down there, Red Simon, was a very patient fellow, an excellent writer, good lawyer. He wrote things out by hand, had beautiful handwriting; he was an institutional memory. He had been there on a couple of different tours. That's a story all of its own. He kept all kinds of little pieces of paper in his drawer to provide him with some memories of things that others didn't know about. And so I used him primarily as a filter for the writing, to see that

things were done correctly that way. I relied upon him to see that the Clerk was reminding people of suspense dates and things of that nature so that we would not miss them and Red Simon was really terrific. He lived in Austin; he had an old Chevrolet of some description, must have had a couple of hundred thousand miles on it. He'd get in his car in Austin in the morning, put on a classical tape in his little tape recorder that he had attached to the radio and he would light up an old cigar and he would drive for an hour to Fort Hood. He'd flop himself down at his desk and he stayed right there until noon time just writing away, never wasted a second. At noon time, he'd close the door; he would eat a sandwich, put his feet up on his desk, nap for a few minutes, open that door, and he started over. Five o'clock rolled around, he's get in the car, put in another tape, light up another cigar, drive back to Austin. Every day, he went back and forth. He was just exactly what I needed at that time. He did a terrific job for me. I always gave him a very fine report card. See, Larry Williams had been down there and Larry Williams didn't like him at all, and every time my OER would hit the Pentagon and Larry Williams would see it, he'd call me up on the

telephone. "What are you doing giving this guy a top block OER?" Because he disliked him for a couple of reasons. I said, "Well, Larry, you know, all I have to say is that the guy is doing top notch work for me and that's what I said on that piece of paper." And he did, he did great work for me.

And he was very good with the youngsters, too. He knew how to talk to them and they would listen to him and so he kept that part of the operation going just fine. He's rewrite just about everything that came in. We had reviews and advices down there that were terrific, because he would just take the time to sit there and fly speck everything, get it right, and so, of course, that eased my workload a great deal right there. I didn't have to proofread anything, and that was a great help to me. I needed that because I had to spend so much time initially with middle-management things that I really shouldn't have had to do in the first place. Somewhere else I would have used Wayne Hansen, I think, in a different way that I used Red Simon. But there it just happened to work out just right. He had that talent so I just took advantage of that and he did a great job for me.

Q: Sir, it has been opined that you would rate Fort

Hood as your most enjoyable tour outside, perhaps, the General Officer positions that you held. Would that be a correct opinion?

A: When I went out to Fort Riley once for some visits out there, it just happened to be the time the Big Red One had its reunion. Jack Rice sent one of his brightest young, most articulate officers over to meet my wife and me and we rode from Kansas City over to Fort Riley in a sedan. And he asked that question. He said, "What's your best assignment? What did you like the most?" And my answer to him and others is, "You'll have to ask more than that. How about asking me what assignment I liked from a purely official duty type of assignment and if you're going to do that then I probably will say, that's the 1st Infantry Division. If you say to me what assignment did you have with the very best family life, I would probably tell you Fort Leavenworth, Kansas. If you're going to say, well, how about putting them together and tell me, putting in official duty and family life, too, which would you choose, I would say Fort Hood." So I'm just not willing to pick out one of them unless you ask me or allow me to say a little bit more, because I enjoyed them for different reasons. My wife will tell you the same thing. She wouldn't

tell you about Vietnam, she didn't like that at all. But I think she would tell you that, if you asked her about family life, she'd probably say Fort Leavenworth was the best. I don't know that I've ever had an assignment that I just really didn't like, unless it was that one over in Heidelberg and I wanted to get out from under Damon.

Q: How did you get word that you were a new BG?

A: Will Persons called me up bright and early one Monday morning and told me and I said, "You got to be kidding." He said, "No, I'm not and when can you come to Washington?" I said, "Gee, I don't know. I haven't had time to think about it." And so that's how that thing went. Now that was a fun time. Let's see, that was about the first of March, the first few days of March, as I remember, and I was promoted at Fort Hood on the 17th of March. We did things a little differently then. And so I did not leave Fort Hood until the end of March. General Shoemaker, bless his heart, said, "Well, we've never had a JAG promoted before so we're going to do this right." So he called the G-3 and the Chief of Staff and me and he said, "I want this to be a good ceremony. I want a band, troops, music, flags, cannons, everything, and I

want it to be a good ceremony. Now, Chief, G-3, if you've got any questions about who's in charge, it's this guy right here. Whatever he wants, he gets." He was really very generous and he continued, "We're going to get you promoted. I'm going to give you an aide because at the end of the month, BG's don't get them anymore, so you'll get to have one." We had a beautiful ceremony. I mean, they set up the stands and brought in the troops and flags. I asked the civilians from the civilian community to come, and it was in connection with Retreat and they fired the old cannon off eleven times. They saved the casing from the first one and it's sitting on a table in my office. It was really a first class operation and JAG's don't get that very often because almost all of us are promoted in Washington. We didn't get anything like that in D.C.

So I was really very fortunate to have been promoted at all to start with, but even more fortunate to have been promoted at Fort Hood, because it was really a terrific ceremony. We had all those people--it cost me a fortune--had them all over to the club afterwards to drink champagne and by this time, Dale Just had a one star sticker on my bumper, gone over to my house, and changed

the house sign and all that stuff. In fact, that's a good story. A couple of days after this I went by the filling station which was right across the street from the JAG office and in those days, they had young fellows that would put your gas in for you, and this young fellow putting the gas in looked at that bumper sticker, and he said, "You a General?" I said, "Yes." And he thought for a second and he said, "What does a General do?" I said, "I haven't been one long enough to tell you. I don't know."

Q: Sir, did you have any feelings about going back to Washington to be the Chief Judge, Commander of USALSA?

A: Well, yes. I never have been really that fond of Washington and I do remember when I got back that any number of people said, "How do you like being back in Washington?" And most of the time I said to them, "Well, it's just really no different than the first time. After you've been here for a short period of time, you either become acclimated or insensitive and I've never been sure just exactly which one it is." So I had that kind of a reservation, but on the other hand, it was a thrilling time; and so there was an awful lot to look forward to, as well, and so I think the good

overshadowed the misgivings by far. Everything worked out beautifully; buying a house and everything when we got up here and, of course, I had a great time over there as the Chief Judge. That was a totally different experience. I think I told you about Colonel Johnson and the U.S. Army Judiciary, the defrocking of a Law Officer. When I first got over there, the senior Colonel was Bill Carn . I called Bill Carn in and I called in Bill Laray, who was the Chief Trial Judge, and I said, "I want you guys to send Colonel Johnson in here. I want to talk to him." They said, "Who?" So I told the story about how I got defrocked. Of course, Colonel Johnson has long since been dead for a long number of years. But that was a very fun time to go over there and be the Chief Judge, a lot of fun. It's a lot of fun.

Q: Sir, we were desirous of you describing, initially, your significant duties when you were billeted as Commander of USALSA.

A: Well, you know, I was just the Chief Judge and the Commander. It's an interesting job. When I first got there, the secretary's name was Toni. Toni is still over there. We had a Warrant Officer named Koceja and a Lieutenant Colonel named Charlie Hoff. I had an assistant clerk whose name I can't recall

at the moment. He was a big, tall, handsome kid; really smart guy. And I used to say the only people I really commanded over there were Toni, the Warrant Officer, the Lieutenant Colonel and the Captain. I didn't command anything else because you don't command the judges. There were twelve judges there; and you don't command Defense Appellate Division; they belong to the AJAG for Civil Law; you don't command the Government Appellate Division, their operational control goes to the AJAG for Military Law and so on, and everybody really belongs to somebody else. It was command but not control of what they do over there, which is sort of an interesting thing. And I didn't have any problem with that. I determined early on that if I was going to make any kind of impact over there, that it would not be because I was a great legal scholar; it would be because I could get something else done. So I decided that I would modernize the place. I undertook to paint, fix-up, rearrange, move, get more space, buy chairs, desks, rugs, and all of that kind of stuff. I rebuilt the courtroom; I refinished and refurbished the deliberation room for the judges to use at the CMR. That's really where I put my direction. Secondly, I tried to put myself on as

many cases as I could. I don't remember now how many cases I participated in, but a fair number. Usually the Chief Judge didn't sit on a great number, but I sat on quite a few and I wrote quite a few opinions, too. I could tell you how many because I have them at the office in some file. I don't think you saw those, did you?

Q: No, sir, I don't believe so.

A: I don't know if there's any value in your seeing them, but they're in one of the bookcases someplace. There are about three or four large three-ring binders that have the cases in there and they're indexed and that kind of thing. They're there if you think you'd like to look at them. And I tried to computerize the place. There was no computerization of anything. When I arrived there everything was done with a stubby pencil. They had a little machine that sorted and punched cards. To my knowledge, the machine had been there for about twenty-five years. Otherwise, records were kept by hand. There were records of trials stacked all over the place up there. They were in the hallways, in the offices, all through the clerks' offices; I don't remember the number now. But I asked the clerk in there, "How many records of trial do you have on hand?" There was some huge

number, way up in the thousands. And, "Why do you have that many?" There were a variety of reasons. Records are boxed into boxes. I guess they'd get them from GSA someplace, and they hold a legal size piece of paper, which the record is. They're that wide and they're sufficiently deep to hold them, an average record, maybe three, four inches. It'll hold maybe ten of those, something like that. And so what they were doing is marking all the records. When they come in, they're given a CM number, if it's a General Court, SPCM if it's a Special. They're given a number and that's the way they're filed in boxes to be shipped over to Suitland, the records holding place over there. But the only thing they were doing if they had, say, ten records in a box, if they had record one, two, three, four, six, seven, eight, nine, ten, they'd put all those in a box, but they don't have record number five. They won't have record number five because Appellate Review is not complete on the thing. It may be a complicated case and have to be up and down the chain a couple of times. So, they would leave that box sitting on the floor until record number five completed its Appellate Review and then they'd put it in the box in the proper order, tape it up, and then they's ship that to Suitland. It

took me a long time to convince them, you could really just label the boxes and number them, and write on a piece of paper or in the computer what's in what box, what shelf it's on out at Suitland, and that kind of stuff. And so we finally got rid of all those excess records. It was a very simple thing to do, just something they hadn't done over there.

They had another interesting thing. The Clerk told me that they hadn't gotten around to closing out the record, and I said, "What do you mean 'closing out'? What do you do to close out a record?" "Well, you go through to see if it's administratively correct." "Okay. What do you do to see that it's administratively correct?" "We check to see that the forfeitures are correct." "What do you do that for?" "Maybe a mistake has been made." "What are you going to do about it? Appellate Review is complete. What do you do now?" "I'm not really sure. We haven't found one in years, but if we did, we'd have to fix it." I said, "You know, that's really ridiculous. If all the lawyers haven't discovered the mistake by this time, the courts, the judges, or somebody, the clerks, just don't worry about it. Box those things up." Well, they had to be sure that they

had all the orders. I said, "Okay. I understand that; be sure you've got all the pieces of paper there." It just takes time. I said, "Okay. I understand all that, but I tell you what we're going to do. I want you to get everybody in the Clerk's office together and I want you to give them a little period of instruction, what you want to check for, make up a little checklist, and then I want everybody in the Clerk's office to close out ten records every day." I said, "We've got other things to do. You close out ten records and then you do what you have to do." And so we just made all those records disappear, got them checked out, sent them off, cleaned up the place, cleared off the floor space. Actually, I got two additional offices out of that, just by clearing out the space.

I ran into the same problem with the defense counsel. Defense counsel assembled huge mounds of paper and records over there. They had to have their personal papers with respect to cases and they were stacked everywhere. I said, "Put them with the record of trial." "We can't do that. Somebody might see them that isn't supposed to." I said, "Okay, we'll box them up in separate boxes and we'll send them over to Suitland and we'll seal

them and we'll provide on there that they can only be opened by somebody from the Defense Appellate Division. So all you have to do is . . ." Well, they finally decided that they weren't really all that important and so we gradually cleaned up the place and got a lot of desks and chairs and things like that. And that wasn't really very hard, you know.

There's always money available at the end of the year. People always have more money that they're saving and then you end up with money that they need to spend. And so I had Dan Koceja, the Warrant Officer, go around and talk to all of the office chiefs and ask them, "What do you need? How many desks, chairs, the whole nine yards?" Then I had Dan make up a series of requisitions and purchase orders in small increments, like five and ten desks at a time, let's say. Then toward the end of the year we talked to the Finance Center and asked them if we had money that's unspent and if any was available. They always said yes. So on the last couple days of the fiscal year, we'd go out and order, because we already had them printed up and nobody else did. And that's the way we got all the furniture we had.

Then we got computerized. That computer still

does not really work the way it ought to work, but it's way ahead of what it used to be. We got the judges' cards fixed up now so that we can get that data in the computer by cases. They always had blue judges' cards when I got there; I don't know who started that. And when the judge tried a case, then he would complete the little blue card and mail it in. And that way then the Clerk knew that they ought to be looking for a particular record of trial, and that was sort of a fail-safe, a scheme, to be sure that we got the records. If the records didn't show up within a reasonable period of time, then the Clerk would send out a message and ask where is the record. So all I did was revise the judges' card and put lots of data on it, give every judge a code number and we used a unit identification code to put on the card so you'd know what unit, and then information about the case, offenses, pleas, the findings, and all of that. As soon as that card comes in, you can put that information in the computer, and so you've got your data base started already. So with that sort of information in there, the ultimate aim was to reach the point where, instead of the SJA sending in the JAG-2 report, we would have that information available in the computer from the judges' cards

and we would create the JAG-2 report at USALSA without any paperwork from the SJA's whatsoever, except with respect to Article 15's, because that's obviously not on the cards, nor are summary courts-martial. That was the objective that I was trying to reach, to have the JAG-2 report created in USALSA, not out in the field.

Q: Have the trial judges been able to computerize their records, to type the data from the little blue cards on the computer to have it already included then?

A: Well, no, they don't have any computers out there. The computer's not hooked up. There is a scheme that the Army has, I think it's called VIABLE, to hook everybody up with the computer, but that effort is a long way away. It is enormously expensive. I personally don't believe we'll reach that goal for many, many years. It just costs too many millions of dollars, too expensive. What I have asked to be done, since I've been the JAG, is to have the SJA's complete something like a judge's card with respect to things such as Claims and Legal Assistance information. The objective there is to get them to the point where we have a scan of readable forms, so that instead of having to type all the information in the computer, we can receive

the forms and run them through the scanner and the scanner will input that data into the computer. And I'm not sure where we are now. I haven't gotten a report for some time as to where we are, but there are a number of things like that which can be done to modernize ourselves a little better.

Q: Sir, what management initiatives did you take in order to enhance the processing times, to reduce the backlog faced by the Court of Military Review?

A: Well, I did a couple of things. There was a report of 60-day cases submitted by the judges from the panels when I arrived, but it was useless because it would just say "over 60-day cases," and it would say "Smith, CM1234, Jones CM34567," and so forth. I knew it was over 60 days, but I didn't know how much over 60 days, nor did I know why it was over 60 days. So I revised the form and the instructions, and I told the judges to tell me how long it's been pending and to tell me why. I got back some very interesting answers: "Smith, CM1234" and they'd give me a date, for example, it's been six months, eight months, ten months, some of them over a year, and it would say "Opinion being written" or "Research not completed."

Well, what does that tell you? It doesn't tell you anything. So I made another effort. I

said, "I want you to tell me with a little more particularity why the thing is that way." Then they started to provide me with that information. I took the pieces of paper from each panel and consolidated them and consolidated the report and then I circulated them throughout USALSA, not only to the judges, but to the GAD's and the DAD's. And I got a lot of ripples from the judges for that; that this was nobody's business but their's. Some of them, I think, were a little embarrassed to see their name with this report and it took a little while, but those really long cases began to disappear. They just didn't like seeing their name on that piece of paper.

To be honest, that's about all it took to do that. There were many, many, many enlargements of cases by the defense, you know. It was not uncommon to see one with twelve enlargements of time to file and why we didn't. There were a lot of reasons why that happened. There was a considerable turnover in the Defense Appellate Division and so it was not uncommon for a case to go through maybe three defense counsel and with the big number, they just never got around to them. But there was a tendency also, as there always is, for everybody to go for the big murder case, that

kind of thing, and the relatively unimportant thing, like an assault and battery or something of that nature, that's routine and nobody is interested. Everybody wants a murder case and you'll find that when you're out in an office, when a murder case comes into the office, all the prosecutors want to prosecute it; all the defense counsel want to defend it; everybody wants to get involved in a big murder case. And so I determined that the enlargements were being given automatically; that all the defense guys did was to send a big long piece of paper to the judges and have maybe 50 to 100 cases on a couple of pages and the judge would just draw a line through all of the places where it said "enlargement approved" and initial it once. Nobody paid much attention to it. So I made the judges start doing it line by line. When the fourth one started and when they asked for the fourth one, the only way they were going to get that is to go before the judge and talk to him and explain to the judge why. And, when the judge says you get one, you get one. Well, people don't like to explain things like that, so that helped to some degree. It's a systemic problem, though, high turnover and high volume of cases. Still they just have far more enlargements than I think they really

ought to have. As a matter of fact, I've looked at some records of trial recently for various reasons and I could see that we still have quite a number of enlargements over there. It may not be that you can do a whole lot about it.

Q: Sir, how about initiatives in the selection and good management of the military judges?

A: Yes. I got the approval of General Persons to at least establish, as an objective toward which we could aim, that we would have all field grade judges. That was the first objective--to eliminate captains as judges to the maximum extent possible. Secondly, to increase the number of GCM judges and reduce the number of Special Court judges. Then, thirdly, something that we've never reached, reach the point where we have all field grade judges and all are GCM judges. We will probably never make that and, indeed, I've not pushed very hard on that because I've just about concluded it's not a very good idea, because you need to have some youngsters in there getting some training at the bottom, so that they can move out and go someplace and be a deputy or chief of justice or whatever and be a judge again sometime. So that's probably not a good idea. But at least we made an effort to do that. I captured control of the Judge's Course

here at the JAG School.

Now the Chief Judge approved attendance of people for the Judge's Course--the idea being that if you're not programmed to be a judge or you're not one of the fillers that we want to have hanging around for contingencies, you don't get to go. So that cut down the size of the Judge's Course right away. People like to go to the Judge's Course, but we send only those now that we really feel we need, that we actually need for the next assignment or, for example, in Germany. We always try to have a couple or so in Germany, who are qualified to be judges, doing something else in case we have an emergency, and we do that in other places as well. I also began the process of identifying everybody who was qualified to be a judge and keeping track of all of those people separately. Indeed, I still do that. I have a separate page in my own roster, one page for trial judges and one page for appellate judges, and I track everybody, and that information is now in the computers. So, if you were to ask, how many people are qualified to be judges, we'd punch a couple of buttons on the computer and give you that information today. If I ever need a judge I can find out where everybody is and who is the most available. That caused some

consternation in the Reserve community. They like to go to that course, but I just won't let the Reserve Component people go unless they're going to be a military judge.

Q: Sir, you at one time had opined that the quality of briefs and arguments before the Court of Military Review was downgraded, you thought, by the COMA rules, and thought that COMA was in some way denied the full benefit of Court of Military Review thinking. Do you still perceive that to be the case, and what is the overall relationship that you perceive between CMR and COMA?

A: Well, I think the climate is a little different today than it was in those days. At that time Fletcher was the Chief Judge and the defense counsel, I believe, perceived, correctly or wrongly, whichever way you want to look at it, that he was swayed by emotional argument not by good, sound legal reason, and so they tended to write their briefs that way. Because of that the briefs before the CMR tended to be written in the same way, but not as well. I think there was an undercurrent of feeling in those days that the CMR is really just a rubber stamp and so why pay much attention to them and put your best effort forward. Get the job done with a piece of paper, a brief,

and if we have to go to a COMA, which we probably will, then we'll write a better brief.

They didn't really write good briefs for them either. They were too emotionally written, grossly overstated the case, and I complained about this a great deal. Bob Clarke was the Chief of Defense Appellate then at that time. I went in to see Bob one day and said, "Look, Bob, let me show you this thing here." And it started off talking about a significant case; the basic constitutional rights of the accused had been breached. I said, "When I first read this, Bob, I thought, gees, this is a serious case. And then I read a little bit further and the significant breach of the guy's basic constitutional rights is that they've got his social security number wrong on the review." Seriously, that was it. You got to understand that when most people read that, you've lost whoever reads that. Your credibility is completely destroyed with such an argument. And that's just dumb and it's not my job to run the Defense Appellate Division. Indeed, if I tried to do that I'd be in serious trouble, but I think you ought to go tell your young guys that they may be not fulfilling their ethical obligations because they're not doing the best job they can to

represent their client. All that does is hack people off. There was a lot of instances of things like that. For a long period of time I went through briefs and would redline things that I thought were just totally out of focus. I don't know that it really did any good, because of the attitude of some of the people that we had; but, at least I tried to make an effort. I tried to do that on cases on which I sat and when we had oral argument. I was rather severe sometimes, I think, with counsel. I made the statement any number of times that, after I listened to the defense and then I listened to the government, I was under the impression that they were talking about two entirely different cases and that they were so far apart on the factual summary of the case that it sounded like two cases. And, so, I tried to do something about it. I don't think it ever made much of a dent in that regard. But I tried. I noticed in the Rules of Court that the accused decided or his counsel decided if there would be oral argument. I said, "Why is that?" And they said, "Well, an accused has a right to make an oral argument." I said, "I never heard of a court where that's the case." And so I changed the rules. Well, I didn't just change them myself. I got

together with the Chief Judges of the Air Force and the Navy and we jointly changed the rules to provide that the court decides if there will be an oral argument. That was probably done in '77, maybe '78.

It was just a few months ago that a case with that issue got before the COMA and COMA rendered an opinion. The Opinion was written by Chief Judge Everett and he made the remark in the Opinion that nobody knew why the change was made nor the reason for it. So I called him up on the telephone and said, "I can tell you exactly, because I did it." I said, "Who determines whether there will be oral or written argument before your court?" He said, "We do." I said, "Is the Court of Military Review a court?" He said, "Sure." I said, "Why shouldn't the court determine whether there will be oral or written argument? What's the difference?" He said he didn't look at it that way. That was exactly why I did it; a court is a court is a court. So, the court should determine those things. So, that's just another little thing.

We did revise the Rules of Procedure though, completely, and tried to address some of the little things that I thought needed to be fine-tuned a little bit because of the passage of time. I also

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changed the format of the Opinions. The COMR Opinions are on an 8 x 10 piece of paper just like this and they look like an Opinion because the judge's name is on it, of course, as the one who wrote it, and then the clerk, whoever sign it, and so on. You probably haven't been around long enough to know how they used to look. From the earliest days that I can remember when we had Boards of Review, their Opinions were what they called the shortform. That is today it was affirmed without any views. Or one that took no more than a small paragraph. They used some preprinted forms and there were about four or five copies and the copies were like tissue paper, they were so thin, and they were legal sheet size long. Many times when I was at the Disciplinary Barracks I have given or seen others give to prisoners the final disposition of his case on a piece of old tissue paper. Half the time the typing was poor and you could barely see the lettering. Nothing was signed. You could never see where anybody had signed the original because they didn't press down hard enough to go through the carbons, and you could almost see a guy standing up there looking at that thing and saying, "You mean I'm in jail and that's it? That tissue paper?"

So, I had determined that something ought to be done about that. This was my chance, as the Chief Judge, I didn't write the efficiency reports of the judges and I certainly couldn't tell the Judge how to write opinions or what view to take. But I could sure tell them things about format, so, I fiddled around a little bit on my own, with the help of a couple of other guys over there and we came up with a format and called them all together one day and I said, "This is the new format." They were all to be typed and they will be reproduced on the master xerox machine so they look like originals and the Clerk of Court will sign it. We will give the accused out at Fort Leavenworth something that looks like it came from a court.

There was enormous resistance to that idea. The panel secretaries didn't like it; they didn't want to type it; they didn't think it was the way to go; much grumbling by the judges because now they've got to put something on a piece of paper. I decreed that they ought to explain a little bit why they're doing what they're doing so that the poor old soldier out at Leavenworth, when he picks up his piece of paper, has at least some modicum of an idea of why something happened to him. And there was just enormous resistance there. But I

went ahead and did it anyway, and I think if you could go over and talk to the judges today, they would be horrified if they were doing it any other way. They've been doing it now for some years. I switched the panels around. It was almost to the point over there that, if you were assigned to a panel, it was taken as a matter of right. You stayed right there with the same people. And, I said, "Look, I told you guys I wasn't any Oliver Wendell Holmes, but I can read. And I read in the ABA standards, when you have a multi-panel court, you're supposed to change periodically. That's what the standard is, so aren't we a court? Why don't we change? So we are going to change."

It took me quite a long time to make the first change. The judges constantly came up with reasons why the timing wasn't right. "We have to finish up some of these cases and we've got this other group of cases over here," and they came up with reason after reason after reason. This went on for some few months. Finally, I met with them one day and I said, "I want to discuss the panel changes." Several of them said, "We want to talk about that." I said, "The time for talking has passed." I picked a date, and said, "This is the date, I don't want to hear any more discussion about it. I don't

want to hear any reasons why you can't do it. In the absence of the second coming, you switch." I knocked the gavel on the table and got up and left.

If I hadn't done that we'd still have the same panels today. They just didn't want to move. They just wanted to be on those panels. They were concerned about who was going to be the senior judge on the panel. Some of them, who were senior judges, became panel members, not senior judges. But I thought it was time to move them, shake them up and move the panels about some so that they didn't have the same ol' guys talking to each other all the time. And, so I did it.

I had a similar bit of trouble with the deliberation room. We had talked and talked and talked about the courtroom itself. We had 12 judges, besides me, and I had 12 ideas besides my own about how we ought to do the courtroom. And we talked and talked and talked about it. So, finally, we did at least reach some little bit of agreement. But then I brought up the subject of the deliberation room, how it should be decorated, and we started talking and again and again and again and I just got so tired of talking that I finally said, "Gentlemen, how many of you remember The Shadow?" Are you old enough to remember The

Shadow?

Q: I've heard some of the old episodes.

A: The old radio programs. "What evil lurks in the hearts of men? The Shadow knows." Of course, all of those guys remember that, and I said, "You know, The Shadow always wore a black cape and a black slouch hat and that's what made him invisible. But there was one episode in which the bad guy had everything red; everything in his home was red, including all the lights. So The Shadow for that occasion dressed in red, a red cape and a red slouch hat, so that he would be invisible." "In honor of that, the deliberation room will be red." And it is red. I just got so tired of talking I decided I'd just make a decision and go on my way.

Q: Sir, did you have occasion as Chief Judge to sit en banc where that method of proceeding had not been requested, that had been in fact chosen as the appropriate measure among the judges, and, if so, how did that really work?

A: Yes, there had not been an en banc over there in a zillion years and there were divergent opinions from some panels. I intentionally found a case that had an issue in it where it had been decided in different ways and talked to a sufficient number of the judges in voting for an en banc and so we

had an en banc. We had a few of them while I was there, maybe three or four. It's difficult. Getting twelve judges to agree on something is just about impossible, and so the first en banc was certainly no different than that. I think the name of that case was Merrick.

Q: Merrick?

A: Something like that? We had several different Opinions in that case, and that has been the pattern since. When General Hansen was over there they had a couple of en bancs and one of those had to do with some 3d Armored Division issues. I think there were about four or five different opinions in that. It's rather unwieldy. Twelve is really just too many to get any kind of unanimity of opinion on I think. But it's a useful device in some respect though. If you could just get a decent majority together for the principal opinion then you do have a case which can be cited as a precedent. Otherwise, the panel decision had never been considered to being precedent by other panels--authority but not precedent. So, it is useful if you can do that, and that's what I was looking for. I still think that, despite the fact that you have an enormous difficulty trying to get twelve people to agree on anything, it's a worthwhile thing on

occasion. I wouldn't recommend it on a routine basis though. It's too unwieldy. Besides, you'd have a hell of a time sitting twelve people on the bench. Although, when I refurbished the courtroom--you can go over there and look at it--the platform to the rear of the bench is sufficiently deep that it will hold two rows of chairs, and that's precisely why that was done so that we could have an en banc and all the judges could sit up there.

Q: Sir, I believe you had a role to play in the Military Academy cheating scandal.

A: Yes, I'd forgotten about it. It was EE-304. Yes, I had never heard of EE-304 before in my life, but Larry Williams called me up one day and told me that there was some difficulty up there with respect to that issue and they didn't know exactly what the problem was. I was to go up there and see if I could straighten it out. The problem was a pretty simple one actually. There was a cheating scandal and that, of course, is a story in and of itself. I don't really know that much about the cheating scandal except to know that there was one and I did see some of the papers, which convinced me that some cadets had copied. It seemed very clear to me, I mean, to the extent of misspelling the words in the same way. But that was not my

focus. When the scandal broke, the Superintendent, General Berry, also a friend of mine from the 1st Infantry Division, had decreed that the board hearings, and there was an enormous number of them, would be completed before the academic year that began that August.

This was, I think late June or very early in July. The Superintendent, in talking to Colonel Shimek, determined that the board hearings would not be completed until Christmas time and he was very much annoyed, upset, and called the Pentagon. I don't know who he called, but somebody called the JAG. If it goes sour, it's a legal problem, you know what I mean? And, so, I flew up there during the middle of the week. I got up there in the morning, spoke to several people, and looked at some of the paperwork. It was curiosity more than anything else. We had lunch, and then I got everyone involved in the cases in the JAG office and we stayed there until about midnight. I tried to find out who had done what to whom and, what the defense counsels' roles were and what their concerns were, and who had what cases.

There's a little library in the Law Department there. You might remember--it had some photographs of members of that office from years past. It had

a blackboard in there, and I used that blackboard and I rescheduled every case and everybody was really upset with me. The Superintendent rolled around and spent some time over there and said, this will never do. I said, "Well, it will do. All you have to do is have about 50 JAGs, that's all and we'll hire court reporters out of New York." I had them on the phone. Yes they could get court reporters and it would cost two hundred and fifty thousand dollars. Send somebody there and get your P & C guy and send him down there to sign the contract." He said, "We don't have two hundred and fifty thousand dollars." "You guys don't think big. Don't worry about the two hundred and fifty thousand dollars. The Department of the Army will give West Point anything they need."

Everybody was worried, but we did it. We went down and hired a firm out of New York. I had called back and talked to Larry Williams and I told him I wanted 50 JAG officers and in a matter of a few days there were 50 JAG officers on TDY at West Point. And I flew back the next day for a meeting with the JAG and the ASA and the RA and the Undersecretary and several people in the hierarchy there in the Pentagon. I told them about the two hundred and fifty thousand dollars, and the only

question that anybody ever asked me was, "Are you sure that's enough money?" People will rally to give West Point what it needs. Anyway, we did pump the money into the place. We sent 50 different JAGs up there on TDY for some few months, and we did indeed get the board actions completed before the academic year started.

Q: Were these all Honor Board cases, sir?

A: All honor boards. A very elaborate procedure. Also, General Persons concluded, as a result of that incident and the description that I gave him and some of the files that I brought back to show him, that the honor system was absolutely too unwieldy and needed to be revised. Indeed, he set in motion the directive to revise that system for them and the Ad Law people got busy on that. It was revised and it was streamlined considerably, I think all for the better. Somebody was talking to General Persons about it for his oral history and I'm sure he's addressed that because he knows more about it than I do. That was a very good effort on his part, in my view.

Q: Do you recall what some of the improvements were to the system, sir?

A: Well, they were several. First of all, we got the lawyers out of the courtroom, so to speak. I mean

there are no defense counsel present now before Honor Boards. The cadet, who is charged, can talk with a lawyer, consult with a lawyer, but there is no lawyer available. It's an administrative board. It's not a legal, adversarial type of a proceeding. It's an honor board; it's an administrative board. So, that alone shortened the procedures just by getting the lawyers out of there. And, then there were several levels that were eliminated. Some of those honor board cases had the EE-304 eight to ten inches thick, just on and on and on and on; useless repetition. You just don't find that much any more. It's been shortened considerably. The Ad Law people, I think did an excellent job. When I was later moved over to the building and was the AJAJ for Military Law, I had occasion to review that whole process because we got sued for lack of due process and so it was necessary for me to go back over it all again and I think the Ad Law people just did a marvelous job. They got some help from litigators, for the litigation aspect, and that attack on the system failed and so I think it is pretty clear now that it's a good system; it is due process and I think people are investigated under a better system.

Q: Sir, I know that you had an opportunity to

investigate some aspect of that with Mr. Bland West?

A: Yes.

Q: As I understand it, the focus was on some allegations made by some of the defense counsel. Would you comment on that?

A: I don't remember that much about it. I do remember that Bland West and I did go up there a few more times and we did render a report and I suppose there's a copy of the report in the file, isn't there?

Q: Yes, sir.

A: Okay, I'm a pack rat sometimes. There were some allegations by a couple of our defense counsels that were up there, who were vocal and who liked to try cases in the press about the unfairness of the system; they complained of pressures being put on them. Some of that pressure, I think, came from the fact that I rescheduled all the cases and got them, bing, bing, bing, in order to process them through. Some of those guys had to work pretty long and pretty hard--the defense counsel did. It wasn't an impression of a nice vacation to West Point, an eight to five with a long lunch hour. They were working long hours up there, very hard. And some of them didn't like that. That was

basically all there was to the complaint. I just didn't think they had much substance to them.

Q: Do you have any perceptions on the quality of the appellate judges who sit on the COMR?

A: Infinitely better than it used to be. I don't like to say this, but it is true--that at one point in time the COMR was a deity--old colonels and drunks and whatever, who were incompetent and you didn't want to put them any place else. It was viewed as a harmless place for duds. That was still true to some extent when I was the Exec. General Hodson had some guys over there that were just not the quality that they should have been. So, I asked General Persons if he would make an extra effort to assign high quality people up there and to give us, if possible, a lieutenant colonel on each of the panels. I asked him to establish a policy of moving the judges in and out so that it wasn't a dead end over there, that they move maybe an SJA in as a judge and you take an appellate judge and make him a trial judge and you take a trial judge and make him an appellate judge. General Persons agreed to that. And so we got that initiative under way, thanks to him, and, we've been aimed in that direction ever since, and so I just think the quality of the judges today is far better than it

used to be some years ago.

Q: Sir, what makes a good appellate judge; what qualities?

A: Well, you certainly have to be patient, because there's an enormous amount of reading and research that's involved, just to prepare yourself to do your job; you have to read quite a bit. Certainly, you have to read the record, and the review, the advice, and maybe even other things. You certainly have to do research and you have to do writing. You have to finally reach some sort of an agreement with somebody, the other panel members, it takes at least two in agreement to get a decision. So, there's a great deal of patience involved in that process, it seems to me. And, of course, you have to be somewhat studious in order to do the research and the writing you have imposed on you. And of course like everything else, some people are just better at that than others.

But I would think that patience and some desire to do research, a leaning towards academia, perhaps. In a way you have to be sort of a loner.

One of the other things I did was to move some space around and give every judge a private office so that they could study. Actually there was a method in my madness. I concluded, among other

things, that the judges spent too damn much time talking to each other when they should have been in there reading and writing. And, so, I gave them all private offices. It's kind of hard to talk to the walls. But, you do need some privacy for that sort of thing, and one thing that I always wanted to see, but did not see to the extent that I would like, and that is the use of clerks. I don't know what's going on over there today, but during the time that I was over there, there were a number of judges who absolutely would not use a clerk anyway. You can save yourself an awful lot of time and effort in making good use of a clerk. I never would have survived without my clerk, on whom I relied to do a lot of research and to draft things along some guidelines that I'd give him and that sort of thing. I just never would have survived. I don't know if that really answers that question. That's about the best I can do, I think.

Q: Sir, I have the same question--you mentioned some negative things about the appellate counsel point of view--what are effective briefs and arguments, from the appellate judge's perspective, from an appellate counsel?

A: Well, first and foremost, you must be familiar with the case. You have to know what the facts of the

case are. You've got to know that. Now, I mentioned earlier that sometimes I thought they were talking about two different cases. I understand that each side is going to kind of bend the facts a little bit to suit their argument. I understand that. And I have no objection to that sort of thing. But when you bend the facts so much that you're really getting across an incorrect piece of information as a fact, that's too much, and that was the kind of thing that I was suggesting before. I found, too, that sometimes in their haste to get ready some of the counsel were not familiar with the facts as they really should be. Secondly, they sometimes were not as well prepared through research and just thinking about the case. I used to complain about the defense counsel more than anybody. I found, at least I perceived, that the counsel would read the case, do some research, orient on an issue, and prepare for that issue and prepare his or her argument for that issue, without ever having asked themselves--what's the other side going to say about this? And you would find that if you asked sharp questions, they just weren't ready. And a lot of that, of course, is correctable if you have people who worked on both sides of the aisle. That's the same thing as

trying cases. A person who has been a prosecutor is, obviously, a better defense counsel than one who has done nothing but defend. I did find some of that. I found, something I still complain about, that there is a tendency, I fear, on the part of counsel sometimes to become so enmeshed in the legal issues involved that they forget about serving their client's best interest.

This is one of my favorite stories. Again, Bob Clarke was the Chief of the Defense Appellate Division. Just before I left Fort Hood, we prosecuted a female soldier for larceny, BDC Special. The defense counsel came in and wanted to make a guilty plea deal, pending that the girl's mother lived in Waco, Texas, and she was ill and all that kind of good stuff, and I knew very well what I was going to do. I talked to the General about it because I knew nobody really wanted to hit her in the head with a brick or anything of that sort, they just wanted to get rid of her because she was a thief. So, we dealt for a BCD and two months or three months, whatever it was, suspended, and we tried the case and the defense counsel came in and said, the girl's mother has gotten worse, would you agree to let her go home on excess leave? I said I'm sure the General will agree to that. Give me

a piece of paper and the next time I go I'll take it. He came back the next day and said, "Sir, she can't go on excess leave because she has a suspended sentence and not eligible to go on excess leave. Would you agree to defer the confinement instead, that way she's eligible for excess leave?" And I said, "I'm sure the General will have no objection to that. You give me a piece of paper and you explain why you want this and you're asking for this change, and I, for one, will agree to it, and I'm sure the General will."

Well, in the hubbub of getting ready to leave and so forth, I left before the defense counsel brought the change over to us and I completely forgot about the case. Completely forgot about it until one day I'm sitting in my office as the Chief Judge and a routine case came through for me to decide whether it was going to be published or unpublished, and I looked at it, just sort of out of curiosity, to see what kind of case it is, and I said, "Fort Hood, huh--look here, you know. Oh, mercy, I remember this case." This case had been up to the COMA and been pending, of course, for some time. This must have been in '77 or early '78. The issue was that the convening authority did not comply with the guilty plea agreement

because he deferred the confinement rather than suspend it. The Court of Military Appeals agreed that the convening authority did not comply with the guilty plea and so they returned the case to the Board of Review for action. And one of the panels, very dutifully then rendered an Opinion returning the case to the convening authority for remedial action to carry out the terms of the guilty plea agreement.

So, I went around to see Bob Clarke, and I said, "Bob, let me explain to you exactly how all this happened. I know that's in the trial record. I know that paper was there." He said, "Yes, but you didn't comply with the guilty plea agreement." I said, "The only reason we didn't comply with the guilty plea agreement, Bob, is the defense asked us to do it differently." "Yes, but you have to comply with the guilty plea agreement." I said, "Okay, for the moment I'll buy that argument. What happens now, Bob?" He said, "What do you mean?" I said, "Well, I'm going to send this Opinion back down to Fort Hood and they're going to do new review and action and the convening authority, instead of deferring the confinement, is going to suspend it, which means that we're going to have to go to Waco and get the young lady and bring her

back to Fort Hood, put her in uniform and let her stay at Fort Hood for two months and serve a sentence." He said, "You can't do that. The suspended sentence expired a year ago." "That's what the COMR says, they're to do a review and action to comply with the original agreement." He said, "They're going to have to give her credit." I said, "It doesn't say so."

He and his guys got busy and went back to COMA with another petition to order the COMR to order the convening authority to suspend it and give her credit, and COMA denied the petition. I said, "Bob, you guys have been so oriented because you wanted to win a legal argument that you've done your client in. If they do exactly what this says, she's going to have to be brought back to Fort Hood and serve two months on a suspended sentence. What do you think's going to happen if she does something wrong? She's going to be in jail. Why couldn't you guys just leave it be?" The defense is the one that asked for the change in the first place.

Well, they all got upset over there and they're wringing their hands and don't know what to do. I had already called Fort Hood to Dale Just and I said, "Dale, when this thing gets down there

tell the SJA to give the gal credit for the confinement and get it over and done with, would you?" He said, "Sure." Now, there's an instance in which the defense was so intent on winning this argument about complying with a guilty plea agreement that they overlooked the fact that they were doing their client harm.

I just ran across another one very similar to that here awhile back, in which there was a sergeant who was tried for the usual thing it seems like now--possession and transfer of marijuana--multiplicious, right? The case was tried before the COMA Opinions about the multiplicity bit. The defense guys kept the case alive on the multiplicity issue. In the meantime, the accused is out at Fort Leavenworth and he wants to get some clemency and get out of jail before Christmas and be with his family. Now, the way I know this is that I saw the clemency petition for the first time in early February of this year. I said, "What the hell is this? A clemency petition to get out for Christmas?" I looked at him and I said, "My God, the guy wanted to get out last December." So I called Al Raby and said, "Hey, what are you guys doing here? You're taking too much time. I mean the poor guy--how's he going to get out of jail

before Christmas if you guys take all this time reviewing the case?" He said, "We just got it." "Where has it been?" "Well, it's been out at Leavenworth." "Why has it been out at Leavenworth?" "It's been out there because the people at the Disciplinary Barracks will not entertain a petition for clemency in the form of a parole (which is what he wanted) if appellate review is not complete."

The defense guys were still going up and down the chain from COMA to COMR about the multiplicity issue and the reason for the delay was that they insisted when they were before COMA that they refer it back down to COMR for a sentence assessment in addition to knocking off one of the specs. Well, now, they reassessed the sentence all right, but left it intact. The chances of getting a sentence reduction through that process is minuscule, almost unheard of, and they kept that case alive trying to win themselves a little legal argument, and which they did, they got one spec dismissed. In the meantime, the guy is out there trying to get paroled, and they won't entertain it. The reason I got the papers late is they didn't have time to get it done before Christmas, and so I talked to John Fugh about that. I said, "John, you ought to

talk to your guys over there. In my judgment they would have served their client better by forgetting about the multiplicity thing and concentrating on getting this guy on parole for Christmas." Well, anyway, that's just another one. There's a lot of those around though and every once in awhile I pick them up and I always go tell somebody.

Q: Sir, what were your thoughts upon moving from USALSA over to the Pentagon to become the Assistant Judge Advocate General for Military Law?

A: Well, I don't know; I don't know what I thought about it. I was not unhappy about moving. I was not unhappy at USALSA either. I was having a good time over there and it was enjoyable. But, you know, I'd been there about a year and a half and so I welcomed the idea of going back into the building and doing something different. Of course, I was only in the job for about a year. But it did give me an opportunity to see what was going on in the building and to become more familiar with some things that I had not been very close to. For example, International Affairs and the Admin Law business, and that sort of thing. I think it was helpful to be the "supervisor," if you would, of those particular divisions, and I look back upon that as being a good time.

- Q: What were your principal duties in that job, sir?
- A: It's sort of like being the SJA, if you will, and your branch chiefs are Ad Law and Crim Law, International Affairs, and that sort of thing. You just supervise what they do.
- Q: What was your role in the development of the Trial Defense Service and the implementation of that?
- A: Virtually none, actually. When I was at USALSA, of course, I happened to be one of the Generals. I was asked for my views by General Persons. And then asked again later, when I was over in the building, but really the planning for that was done by others, and my part, my role there was a very minor one.
- Q: What were your views?
- A: I had some reservations about the way we did it, and I have to say I think some of the views that I expressed turned out to be correct. It was an idea that needed to be implemented in some way and General Persons understood that. My objections were, for example, that General Persons decided to split certification so that people left the basic class here would be certified as trial counsels. but you couldn't be certified as a defense counsel for six months, and that was a device that he was going to use to ensure that there were high quality

people in the Trial Defense Service. And, indeed, there were high quality people in the Trial Defense Service. But after that program had been in effect for awhile, it also became clear that in the process the system had been overloaded. They took a disproportionate share of the experienced people, trial people, put them in TDS and then pretty soon we started getting complaints that TDS was being too successful and the prosecutors are unprepared or not competent, not sufficiently experienced. And, so, we went through a period of time during which that was true, in my view. Other people may well differ with that, but in my view it was very clear that the system was so overloaded that we had in the main experienced, well-coached defense counsel and inexperienced ill-coached prosecutors.

After a period of time, and I don't remember how long now, that split certification scheme was discontinued. There were still only experienced people in TDS when I became the JAG, and I decreed that they're going to have to take their load out of the basic class just like everybody else. And I also started the T-cap Program in an effort to provide a vehicle to train prosecutors. I hope my views there and the things that I have done are not misunderstood. I have nothing against TDS. It's

a good system and it worked well. I stated publicly, many, many times, that the very best way to prosecute a crook and convict a crook and keep a crook convicted on appeal is to get him a good defense counsel, provide him with a good judge, give him a fair trial, where counsel can raise anything they want to raise, and then if you get him convicted you're probably going to keep him convicted. The easiest way in the world to get a crook acquitted on appeal is to give him ineffective counsel. So, if you're really interested in seeing justice done, the innocent go free and the convicted go to jail, you must have competent defense counsel.

And, so, I hope what I've said or done is not misunderstood. I don't mean to try to downplay the merit of the program at all. It's a very good program. It has removed some of the fears and anxieties that some people out in the other world out there in the civilian life and the academic world have had about unlawful command influence and that sort of thing, and it is for that reason, as a matter of fact, as I mentioned a while ago, that I rely completely on the Chief of the TDS and the Chief Trial Judge to run those two organizations. Even if I believe that they're doing something they

ought not to be doing, I do nothing more than report it to the respective chief and let them handle it. If they think something is really bad and they say, we need a letter of reprimand or something, that's fine, I'll do something.

I have tried to be very careful to not interfere in any way with the running of those two organizations. I expect them to observe ethical standards. I will not tolerate a breach of ethics, nor will I tolerate common ordinary crime like adultery, that sort of thing, stealing, mixing a client's money up. If I know of something like that, I don't rely on the TDS or the Chief Trial Judge to take some action in a case like that. What I'm talking about is interfering or not interfering in the way in which they manage their place and conduct the trial and defense of cases. That's no way to be interfering with anyone's activities.

I mentioned the case of the guy with the multiplicitious issue and failure to get his clemency. I just reported that case to John Fugh, and I've not talked to John Fugh about it since, nor do I intend to because John knows I do not wish a report about what they're going to do about that. I'll leave that entirely up to them. One of our

sister services a few times has not observed that type of rule and with disastrous results, and in fact I've talked to other judge advocates and encouraged them to adopt the same kind of policy so that the system is free of suspicion.

Q: What was your involvement with the amendments to the UCMJ?

A: Oh, well, that was pretty extensive. Of course, there had been a ground swell for some time to do something about what was generally considered in the services to be some ill-advised Opinions by the Court of Military Appeals. I'm talking about recruiter misconduct cases primarily; Catlo and Russo. It just reached such proportions that we figured that the services, not the Army, but all of the services, had to do something. So we put together a legislative package to change the basis for jurisdiction under Article 36, with respect to the present rules, and staffed that through the building, we got it over on the Hill and got it in the Record.

Q: Would you characterize the amendment of Article 2 to be the most significant issue that you faced as the Assistant JAG for Military Law?

A: No, I wouldn't say it was the most significant, and the reason I say that is because, as I think I

mentioned to you the other day, the Assistant JAG is the first-line supervisor of the personnel policies and the administration of the personnel system, and that to me always is the most important thing. This was probably the most important substantive issue though, aside from personnel matters, that I handled during that time frame.

Q: What advice do you have for people that follow you in dealing with members of Congress in pushing through amendments such as this?

A: Well, that's a very difficult question to answer because so much depends upon who the players are. They change from time to time, and you may not be able to get along as well with some people as you do with others. The basic advice, though, that I would give is to rely on the people in OCLL to do as much for you as you possibly can get them to do, because they do that on a day-to-day basis and they know the people, they deal with the staff members and senators and the congressmen often, and it just pays, in my view, to have a known quantity dealing with the staffer or a congressman or a senator. I tried to do that myself, even though I had a tour of OCLL. I still rely on the OCLL people to do that--that's their job, not mine.

Q: Sir, what was your relationship like with the other

Brigadier Generals, the men that you served with in the Pentagon.

A: You mean when I was AJAG for Military Law?

Q: Yes, sir.

A: I think we've always had a good relationship with all of them, to be perfectly honest with you. Of course, let's see, when I came over to the building as the AJAG for Military Law, Harvey was there. So, he and I got along well together and General DeFiori came back from Europe and took my job over at the court. I've known Dick for many, many years as well and so I had a friendly relationship with him, and, let's see, who in the world was BG?

A: General Alley?

Q: We had all known each other for many years and to be perfectly honest with you, I don't know of any ill-will, not just between me and any of the others, I don't know of any ill-will between any of the other combinations that you can think of. Oh, I would admit that they're not all extremely close personal friends perhaps, they may not go out together and eat dinner every night and that sort of stuff, but as far as I know everybody has always gotten along well with each other. Now, there's been some times in the past when that was not true, but here within recent years, I just don't know of

any ill-will at all.

Q: Sir, what was your inkling that you were going to be selected to be a Major General? Did you have forewarning of that?

A: No, as a matter of fact, I had bought some property down in Texas and I had decided I was going to retire down there. I had been planning to do that, as a matter of fact.

You asked earlier about my thoughts about coming over to the building. I really originally anticipated that I would serve a tour over at court and then I would retire, and so I thought about that some, and decided I like what I'm doing and so if they want me to go over there for awhile, I'll go over there for awhile. So I really had not given much thought to the whole process, to be perfectly honest about it, until I had been there for a little while and it became very clear that Larry Williams and General Persons were going to retire at the same time; their tours were up and it was clear that they were going to retire. Their ages were such that it was also pretty clear that Larry Williams would not be appointed as the JAG because of age, and that means that there had to be two selected, and there were only four of us. So, that was a fifty-fifty chance, pretty good odds.

I thought about that some and decided, what the heck, I'll hang around until '79 and if I'm one of the ones, that's fine; if I'm not then I'll retire.

Q: General Persons indicated in one of the articles I read, that one of his most significant contributions was the fighting unionization effort. Did you get involved in that?

A: Yes, because there was a lot of Ad Law work in that and Civilian Personnel law in that. The Ad Law part, of course, I got in on because I was the AJAG for Military Law, so I got to see that, and we tried to coordinate our effort with the litigators and Civilian Personnel law. We talked about it quite a bit around the building. That was a good effort. That was a pretty serious thing, to unionize the Army. There were some people who really wanted to do that and thought they could get it done, but, of course, there turned out to be a political solution to that, not a legal solution. But it was a good fight and good work.

Q: Sir, what about General Williams, at least the suggestion that he become the DCSPER? Were you aware of that?

A: Yes. When he was SJA of the 3d Armored Division and General Abrams was the Division Commander, General Abrams made him his G-1, so he had had some

experience in that field. I don't know how seriously people took that. I didn't really consider it very seriously, because I just didn't believe it would happen, although I certainly didn't just dismiss it either, because he had had that experience and you could certainly make a case that that would be a logical thing to do.

Q: Is there a precedent for a Judge Advocate General or an Assistant Judge Advocate General moving to another staff position?

A: I don't know of anyone that has ever done that, except under one particular condition. For example, when General Fuller's tenure as the Assistant JAG was up, he had not reached his mandatory retirement date as an RA Major General; and so, while he was no longer the AJAG, they couldn't force him to retire, so they gave him a job, and he served another couple of years. General Engle did that. See, my tenure as The JAG is up in July of this year. My Regular Army retirement date is 1986 as a Major General and, in fact, I talked to the Chief about this. A few months ago I went up to see him and I said, "Chief, I'm going to retire in July when my term as The JAG is up," and he was very kind. I said, "My Regular Army retirement date is not until 1986," and he

says, "Oh, yes, but you've got your letter from the DCSPER." Well, what he meant by that is that after incidents like Fuller and Engle and some others, when you're appointed to one of these kinds of positions, you get a letter from the DCSPER and basically you agree that unless you are promoted or given increased responsibility, you will retire when your term is up. That was in response to some of these other incidents, so you don't see that happen now. So the Chief said, "Well, yes," but he continued, "You got the letter from the DCSPER?" And, I said, "Well, as a matter of fact, Chief, I never signed such a letter." He says, "You didn't?" I said, "No, your DCSPER never sent me one. He sent me one when I was an Assistant JAG and I agreed that unless I was promoted or given increased responsibilities I would retire at the end of that period. But your DCSPER forgot to give me one." I said, "Don't worry, Chief, I know when I'm not needed and I'm going to retire in July." So, you're probably not going to see that anymore, like Fuller, for example, or Engle. And it's not too likely that you're going to see one appointed to any other job either.

Although this is not a forum to make a case for that, to be perfectly candid, there are some

positions in the Army that an ex-JAG could handle as well and maybe even better than somebody else. In fact, I told the Chief one day; not this Chief, General Meyer. We were talking about this primarily with respect to getting people in AMC and I was trying to talk him into the idea that a JAG could serve as a Commodity Command Commander and do a very good job of it and, indeed, I got him to agree in principle to that. We haven't reached the stage yet where that should be raised again right now, but anyway, we were talking and he said, "Well, okay, maybe we could do that, but JAG's can't do anything else. I said, "Now, wait a minute, Chief. Why don't you fire the DCSPER you've got and make me your DCSPER?" He said, "Why should I do that?" And I said, "Very simple. Your DCSPER has virtually no experience in operating a personnel system and I have." He said, "Well, I guess you do operate your own personnel system." I said, "That's right."

So I think there's some things out there. I do believe that some JAG's could go down and be the DCSPER. I think a JAG could probably very easily be the IG. I think a JAG could certainly handle one of the Commodity Commands. What about John Fugh, for example? John is heavily weighted in

Procurement and Litigation. What better guy to put in charge of one of these multi-zillion dollar procurement factories? He'd be great at it. He'd just do a super job. So, there are some people that could do jobs like that, but the politics of the system most likely would not allow that to happen. I've said before, somewhat facetiously but not totally, that everything that's done in the Army is done to either create or preserve General Officer positions. And there's some truth to that; they're very jealously guarded and you've got all kinds of pressures out there in the non-JAG Army competitive category ranks, that would just be totally destroyed if the Chief and the Secretary made me a three-star General, because that's a three-star that they wouldn't get and it would be a very traumatic thing, in my view, to them. So, I don't think that will ever happen, at least not right now, maybe conditions will change over the years. The Navy Secretary, you probably read in the paper, has said the Navy will reserve a certain number of their flag billets for, if you will, managerial people in slots and send them off to Harvard and things like that. I would think if the Army did something like that, it would enhance the possibility of a JAG doing something else besides

JAG work.

Q: Sir, would that be a good idea? I know the Marines and the Coast Guard, especially the lower grades, have their JAG's perform other functions.

A: Yes, they do. I just don't buy that. The reason they do that, they say, is that they want their JAG's to understand the function of command and discipline and the needs of command and that sort of stuff. You know, if you went on that basis then all obstetricians have got to be females. It has some advantages in a way, if you can afford to do it, but I believe that one of my strengths is that I think I've done just about every job you can do in the JAG Corps and if I was out flip-flopping around between command and JAG jobs I wouldn't be able to make such a statement as that. And so I believe that experience is helpful to me in trying to recognize problems and trying to come up with solutions. I just think that flip-flopping around, doing command work, is a detractor.

That same reasoning process, you know, is why we have the FLEP program. We need some people who have commanded and understand the JAG Corps. Well, the plain truth of the matter is that that's just about a myth. We take people between the second and sixth years, have to by statute. To avoid the

kinds of problems that I mentioned with respect to the World War II type program we had, we don't select anybody with six years of service anymore, a couple at the outset. We orient at the two year mark, and we usually get them in the range of three. And if you look, first of all, at the kind of people that you're getting in the FLEP program, you'll find very few Infantry and Artillery and Armor. It's heavily weighed with--would you believe--AG and Signal, MI. Not only that, most of them haven't really commanded anything. They've all been going to the Basic Course, Ranger School, Jump School, God only knows what all, maybe they have been a Platoon Leader. So we're not really getting people in that really know much about command. I think that's a myth. I have no objection to the FLEP program; it's a good program. It gives a good base to get people in.

Incidentally, I played a pretty major role in the FLEP program. The FLEP program had been under consideration in legislation over on the Hill, but the deal was struck in the Rotunda on the Senate side of the Capitol Building in a conversation between the Secretary of the Senate, a guy named Courier from OCLL and me, and the Secretary of the Senate agreed to push the bill through the Senate

and his son would be one of the first selectees. That's the honest truth and we struck a bargain, and he got it through and we selected his son. That's how we got the FLEP program.

Q: Sir, looking from your role as being in charge of all these divisions, when you were the AJAG for Military Law, how did you think you could best support the field, and your SJA's that were working out and around the world?

A: The first think I did was to get the people together and I told them--something I've told lots of people lots of places--and that is that you and I are here to serve. We don't have this job just so we can get us a thirty year retirement. We don't operate the Crim Law Division just to have fun or something like that. Our purpose here is to serve the JAG and the people out in the field who need help and that's the way we will be oriented. And they were basically oriented that way anyway. I just wanted to add some emphasis, my own emphasis to that. So the first thing I wanted to do was to see any communication coming in from the field from an SJA asking for an opinion or help and I encouraged them to do some business on the telephone. And I think we did a lot more of that now than we used to. It really didn't take much.

People, generally speaking, try to be helpful anyway. You know, we select good people to serve at the Pentagon and so you ought to expect good results.

Q: Sir, you participated in the National Security Seminar at the War College.

A: Yes, that was fun. I wish I could do another one. We had a mixture of folks in the panel--a couple of War College students, an old newspaper guy, and an oil man who worked in the Mideast--and a number of others. Hell, there must have been fifteen or twenty people in each panel, and we just mused about the problems of the world and had a lot of discussions. It was just a really great time to talk to some people who had completely different ideas. For example, the newspaper guy and I didn't see anything eye-to-eye about freedom of the press and his views must be like New York and CBS, and mine must be like Westmoreland. But it really was interesting to be with that group of people and we had a lot of fun.

Q: Was it helpful in your work?

a: No, it was just fun.

Q Sir, would you describe how you were selected to become the AJAG and how that selection process works?

A: Well, I'll tell you more about that some other time, because I don't know exactly. It is not necessary to have a board to select the JAG and the Assistant JAG. The statute authorizes an advisory board because of the requirements, so the method of selection has been a little different from time to time. I do not know whether there was an advisory board held at the time that Harvey and I were selected or not. I never bothered to ask. I suppose I could find out if I tried. I have a sneaky suspicion that the Army General Counsel was heavily involved in the selection process at that time. I doubt that that would be true today. In fact, I'm pretty sure it would not be true. There will be an advisory board this time because Secretary Marsh likes to do things that way, so we do have an advisory board of which, of course, I will be a member. I'm required to be a member. That board will be held toward the end of May and the announcement of the new JAG and Assistant JAG will be made very close to the end of May. We'll let that float around, and let people think about that for a while and then there will be a BG Selection Board convened sometime in June. The reason for that is there is already scheduled a two-star selection board, and so we're just going

to take some of those members and create a separate board to select at least one JAG BG.

Q: Sir, what do you see and what did you see as the role of the AJAG?

A: Well, the AJAG really ought to be called the Deputy JAG, that probably would be more descriptive, because the AJAG or TAJAG is really the alter-ego of the JAG. During the time that General Prugh was the JAG and General Parker was the Assistant JAG, things didn't work so smoothly I don't think. In fact, when General Prugh would go off on a trip, he often would direct me to send him a back channel message, sometimes on a daily basis, telling him what's going on. Well, now General Parker, in trying to carry out his duties, used to send messages too. General Parker didn't know that I was sending messages. And so right away you can get the flavor here that there was not the degree of trust and confidence between the two, as you would find, for example, today. I've been off on this trip now, basically, for two weeks; I have not called back to the Pentagon a single time on my own on official business. I did call back the other day because General Overholt called me to ask about a couple of things, but I never call back. I have complete trust and confidence that the things that

we've got going will move right along and policies that I have established are being served and you can't tell from day to day whether I'm there or not. Very smooth operation. The AJAG, the TAJAG, then, has to be prepared to support the JAG in every way and, if necessary, act as the JAG. So General Overholt has a lot of opportunities to act as the JAG, or has had for the past four years, because I'm gone a lot. The nature of the job is that it requires that I be gone quite a bit, and although the Chief of Staff doesn't agree sometimes, it's probably the smoothest operation in the Pentagon, in my view. I do not believe any other outfit in the Pentagon operates as smoothly in the absence of the Chief. I just don't think it happens.

Q: Sir, we couldn't help but notice, when we were preparing for this, that a good portion of the time that you were the Assistant Judge Advocate General, the TJAG would out of the office in poor health. What was the impact of that? Can you discuss that at all?

A: Well, he was just in poor health most of the time and I don't know what percentage of the time I was Acting JAG, but most of the time I was the Acting JAG. So in a certain sense I almost feel like

sometimes I've been the JAG for six years, not four. I just tried to, of course, do whatever was necessary to be done. There were times when decisions had to be made without any input from the JAG and so I just did it. Of course, you know, I tried to ask myself, what would he like done or, what would his policies be and try to think about things in that line, but, of course, you can't really put yourself in somebody else's shoes very well anyway. I would at least try to do that and I just had to run the office and do the best I could.

Q: Sir, during this time one of the things you did was serve as a Survival Assistance Officer, I guess, for a lack of a better phrase, for General Bradley.

A: Yes. When General Abrams died there was a great deal of confusion; of course, he died unexpectedly, and General Williams was a very close friend of General Abrams and Mrs. Abrams and he helped them a great deal; he still helps them. He concluded and made a recommendation to the Chief of Staff that certain high ranking people be assigned a Survivor Assistance Officer before they died. And General Bradley was the one and they thought something had to be done for a five-star General. So the tradition was established that the most

junior General in the building, JAG General in the building, would be General Bradley's Survivor Assistance Officer, or Mrs. Bradley's, however you want to look at it. Of course, General Bradley was told that he was entitled to his own legal advisor and that's what he always thought I was. In '76, then, I became the Survivor Assistance Officer when I was over at USALSA; and then I moved back over to the building, BG, nothing is changed; then I became the Assistant JAG and so somebody suggested I ought to turn this over to somebody else. I got to thinking about it and I thought, what am I going to do? Go say, "Hey, General Bradley, I'm now a two-star General and I've more important things to do than take care of you. I'm going to give you another BG to do that." I couldn't do that. Besides, I'd gotten to know the old General and I liked him and I know Miss Kitty--the most difficult woman I think I've ever dealt with. Oh, my. And so I decided I'd just stay on and so I did until he died. He was a very interesting old gentleman, a real piece of history there, very common man, very common.

Incidentally, when I first took that job we had nothing. I mean there were no files, pieces of paper or anything like that. I like to know what's

going on if I'm supposed to be doing something. So I began to gather pieces of paper and I don't know where those files are today, probably down in Ad Law someplace. With the help of my Clerk over at USALSA we began to collect a lot of material. For General Bradley, the statute that established his position as a five-star General provided that he would receive the pay and allowances of a Rear Admiral of the upper half plus a personal money allowance of a certain amount. Why in the world they worded it that way I have no idea, but they did and then for some years, when there were pay raises, General Bradley didn't get a pay raise and the reason he didn't get a pay raise is that there is a statute which establishes all the pay grades for all the services. When Congress enacts a pay raise or whatever, they always provide the pay scales for those listed in Title 10, Section something or the other. Old General Bradley is not there so he never got a pay raise. So after a period of time he was given a pay raise and then he was given pay raises just like retired people, cost of living type thing. Of course, he was always on active duty, he wasn't retired; and, anyway, he gathered up all this stuff and, with the help of some people in the Finance Center, calculated

everything, discovered that they had been paying him incorrectly for many years, and so we corrected that. They didn't have his leave on his leave and earnings statement, such as you see yours, and they said, well, there's no sense in putting it down there because he is always on active duty and everywhere he goes he's on active duty. He's never on leave. "Well, when he dies, aren't you going to give him sixty days' pay?" They had to think about that, so they put that down there. And there were just a lot of little things like that that I got involved in. I got to feel closely associated with General Bradley. I just didn't want to hurt his feelings in any way. I thought I got along with him well. But, anyway, we got all that straightened up.

Q: Sir, I noted that there was a lot of activity concerning the Foreign Claims Act, specifically funding for that. Do you recall those issues?

A: Yes. There were some people in the House side who were unhappy with certain provisions of the NATO Status of Forces Agreement, more particularly those provisions dealing with the maneuver claims, they thought the Germans ought to pay more. Well, of course, they have nothing to do with ratification of treaties, which is the Senate's job, but in

order to try to get a toe hold and force the Senate to do something, certain people on the House side were able to reduce the money appropriated for claims each year there for a couple of years. I think their reasoning was, well, if there's not enough money to pay the Germans their claims, then the Germans are going to complain and we'll have to have negotiations and then we can get in there and demand that the Germans pay more. At one time we were sixty/seventy million dollars in the hole. It wasn't just that they short changed us on the normal appropriation; we had some unusual events. In January '79 we were having a maneuver up in north Germany and all the tanks and APC's were out everywhere. Everybody is just having a big time, and then there was a sudden and unexpected warming trend and the tanks just flat sunk in the mud and they ruined fields and just caused an enormous amount of damage with our equipment. At the same time, right in that time in '79, the Mark was down to 1.7 something. That didn't help out any and so things just began to get worse and worse and we were trying to get some money to pay that and couldn't get much help out of DOD. Finally, they did give us some money that the Air Force had not used back in '81. I believe it was around '81.

Q: Yes, sir.

A: Unfortunately, the Mark had risen up to somewhere in the range of three and a half. With this extra money and the rise of the Mark, we were able to pay off a big part of that money and didn't need quite as much. We finally managed to get it down to a manageable portion and things are on a pretty even keel right now. There were really some difficult times there. We just simply did not have any money to pay our bills. That has happened before, incidentally. There are so many things to think of, but when I was at Fort Hood, for a couple of years down there the Claims Service ran out of money and so I had become more involved in claims than I normally would have. As claims would come in, my Claims guy would get them processed in the usual way as quickly as he could, type up all the necessary vouchers to pay and then, each Monday morning, we would sift through the claims that were ready to be paid. I'd say, "Okay, we're going to pay that one," and tick it off on my \$2 calculator, see how much money we're spending and I'd say, "No, we're not going to pay that." We established the basic rules with the concurrence of the CG. Like, for the most part, Colonels and Lieutenant Colonels just simply didn't get paid household goods claims.

There were some exceptions, but, you know, a Colonel comes in and has two, three, four, five hundred dollars worth of damage--that's not as traumatic not to pay him right away as it is for a Speedy-Five who has come in from Europe and they'd lost a crate of his furniture and the baby bed didn't come in. We just established some little guidelines about who we were going to pay first and so, of course, that caused some grumbles.

I had a few Colonels call me up and raise hell, but I said, "Well, that's the way it is." A couple of them said, "Well, I'm going to see the General." I said, "Have at it. Go see him." They never did, but that was sort of a traumatic time with the personnel business, because you're seeing those people, they're looking you right in the face when you say no.

Incidentally, you asked about what was the bulk of the business for us at various places--and I think Fort Hood--and I said the bulk of the business was Military Justice oriented. This is true, but also I think I said it sometime depends. At one time down there we were trying to buy 60,000 more acres of land for Fort Hood and so General Shoemaker wanted to be sure that, if we caused any damage maneuvering around, that those things were

paid quickly. I got more heavily involved that one time with Claims than I ordinarily would have. But at one point in time my Claims Officer and a Major from the G-3 Shop were on alert and flew all over that place in a helicopter. Any time we got word that a fence was down or something like that, they'd take off and go out and get started so we could pay the claim, just like that.

Q: Sir, were you surprised when General Harvey stayed only two years?

A: No, not really. He just had not been feeling well and he had a very serious operation and he had pretty much indicated that he was going to retire.

Q: Sir, what were your thoughts when you were selected to be The Judge Advocate General?

A: Well, really I was overwhelmed by the whole thing. I certainly never really had thought that I'd ever be The Judge Advocate General. I just wondered if I could do the job and do it properly and do a good job. But that didn't last too long; I got so involved in trying to do the job that I didn't worry about that anymore. It was most enjoyable.

Q: How would you describe your relationships with others outside of the JAG Corps, General Counsel, your superiors, Joint Chiefs, DOD General Counsel, sister service TJAG's?

A: Well, that varies with the individuals. When I was first the Assistant JAG the General Counsel was named Jill Wine Volner and she was later replaced by a woman named Sarah Lister. I got along pretty well with Jill, but I didn't get along with Sarah Lister, not worth two cents and as far as I was concerned she was ill-tempered; I didn't think she had the best interests of the Army at heart; I thought she was unreasonable about some things. She said that she would see to it that I was fired when I was the Assistant JAG. Well, Sarah Lister is no longer around and I'm still here.

It was one of those dumb things. Some soldier in Europe dropped a letter in the mail box addressed to the KGB, Moscow, and some Sergeant said, "Gee, that doesn't sound right to me," and the first thing you know the letter is in the hands of the ACSI in the Pentagon. And the ACSI did a dumb thing; he wrote a memorandum to the Army General counsel saying, "How about going over and getting me a court order to open up the letter." General Counsel wrote an opinion and said you couldn't do that, all the statutes prohibited it; you had to mail the letter.

Somehow the Under Secretary of the Army saw that and said, "Well, there seems to be a dispute

here," so he sent it to the DAS and said, "Why don't you have this matter reviewed?" So the DAS sent it to me and said, "What's your opinion?" The reason the ACSI did this in the first place is because-- it's too complicated to go into the whole thing-- but over a period of years the General Counsel had attempted to carve out an area of responsibility with respect to Intelligence matters and, indeed, the General Counsel ought to be involved to a certain extent in those matters, to perhaps a predominant extent, because so much of that stuff, especially surveillance of any kind, is so politically sensitive. If there's any one thing that the Army General Counsel ought to really be concerned about it's legal stuff that has political sensitivities. She's a political appointee, not me. I'm not a political appointee.

But in any event, I got it and so my action guy down in Ad Law was Jim Long and I told the Ad Law guys, "I want you to write me an opinion which will support the proposition that it is constitutionally and statutorily permissible to open the letter." They did exactly what I asked them to do. The reasoning was tissue paper thin, I'll have to say, but they did the very best job, I think, that could have been done considering what

they had to work with. And my reasoning process was, "Let's go do it. Who's going to sue?" The soldier. You know, somebody might sue, but it was worth the risk, in my view, to see if this was really a guy trying to send some secrets about where our nuclear weapons were stored in Germany; the risks were just too great and you couldn't make an argument that you couldn't open the letter.

As this was going on Jim Long said, "Sir, the Army General Counsel doesn't want you to write an opinion on this." I said, "That's what I hear, Jim." And so over a period of about a couple of days we worked and reworked that thing and finally got it in a shape I liked. Al Harvey was in the hospital. I signed the memorandum back to the DAS and I told Jim Long, "I want you to go from here to the DAS's office and drop it off. I don't want you to stop and go to the bathroom or anything. Just go down there and give it to the DAS." He hadn't been gone very long when Sarah Lister called me and she said, "I understand that you're writing an opinion about the letter." I said, "Well, I was writing one, Sarah." She said, "What do you mean?" I said, "Well, it's already written." She said, "I want it destroyed." I said, "Sorry, it's already down at the DAS's office." She flew into a rage

and accused me of screwing up the whole system and everything, hung up the telephone, called back again, started to apologize for hanging up and flew into another rage and, oh, she mumbled about a whole bunch of stuff; how I just ruined everything--it was terrible--what if somebody got their hands on it and did I check this out with Al Harvey. And I said, "Hell, no, I didn't check it out with Al Harvey." "Well, why didn't you do that?" I said, "Look. When he's absent from the office, I'm running the office. I don't check with anybody." And she got really angry. She said, "Well, I'll see to it that you're fired." Now, I was a little hot under the collar myself and I said, "Have at it." I don't know what she ever did, if anything, but we hardly ever spoke to each other again after that and I tried to have as little to do with her as possible. But the relationship was just terrible, horrible.

We may have to edit some of this out, seal it up, but the then Secretary of the Army, in my opinion, did not have the Army's best interests at heart. He was only interested in foisting off some social programs on the Army. Jill Volner and Sarah Lister were interested in the same thing, especially if those programs happened to relate to

women. And they were just as unreasonable about it lots of times.

Jill got very angry with me at one point in time because she was trying to write an opinion that would authorize the use of Federal funds for abortions, and we kept attacking. She'd send the opinion down and we'd send it back and say, "No, this is incorrect," blah, blah. She just got really angry because we were just not cooperating and, "This was something that really needed to be done." "Jill, I'm not arguing with you about whether it needs to be done, but the Congress has said that no Federal funds can be used for an abortion. I think that's pretty clear."

So she came up with a scheme one time. You can't get an abortion in Germany, so we'll send the woman back to the States at Government expense and then, of course, she'll have an opportunity to get an abortion. I said, "Jill you can't--it costs Federal money to run that airplane." She blew up.

Anyway, those relationships were not good, but it was primarily due to the atmosphere of the whole situation. When the new administration came in with Mr. Marsh the difference was absolutely remarkable. I guess I'm sounding partial to the Republicans and I did vote for the President two

times, separate elections, you understand. But the Republicans were apparently very careful--they were very careful about who they selected. Their selection process was very exhaustive, it was thorough. The Democrats apparently were not. They would in some haphazard way select people. We got too many people that were just not really competent for the job and it was just a difficult period of time. The Chief of Staff of the Army was overruled about twelve or fourteen times in a row by the Secretary of the Army on West Point Cadet cases alone and that was the kind of support the Chief was getting.

It's different today because Secretary Marsh and General Meyer before General Wickham, and now General Wickham, support each other, respect each other, defer to each other. Secretary Marsh took the staff out to the Xerox Training Center and the Secretary and we had something like an OE session, switched groups around and basically everybody got on a first name basis. I don't call the Secretary, "Jack," but I got on a first name basis with the Assistant Secretaries and that sort of thing. And the system has worked so smoothly during these past four years, it's just amazing what the difference is. It is absolutely amazing.

Today the rapport with our civilian overseers, the Secretary and the General Counsel is very good. Neither Al Harvey nor Will Persons ever saw the Secretary of the Army one time on business. I see the Secretary frequently. That's the difference in the atmosphere that prevails. As a matter of fact, I see the Secretary more than I see the Chief. We've always gotten on pretty good with respect to the Army staff itself. Certainly for the last four years, I've gotten to know most of these people and have known them for some time and so we've gotten along better.

There were a few times that we had a great deal of difficulty with the DCSPER. At least I thought we did. The DCSPER's office and General Counsel's office are adjacent to each other and the DCSPER was too prone, in my view, to dash out of his office and into General Counsel's office and say, "What do you think about this, Sarah" or "Jill?" And especially with Sarah he's get an answer he didn't like and then he'd come lopping down the hall shopping for another opinion. So, I would say, "Why didn't you come down in the first place? If you'd come down here in the first place and told me what you want I could start this out by getting one of my action officers to go down to

General Counsel's office and talk to one of their action officers and we'd try to get this thing started off at a low level, putting our point of view across, and you have a much better chance of getting your point of view adopted that way than you do this way. You are going in and presenting a question to a woman, who has virtually no experience whatsoever with the Army other than what's she's gotten since she's been here, and so you're liable to get a view you don't like." Well, that's what they actually did with the KGB letter, same thing. So over a period of time with a lot of preaching, I believe that the Army staff now comes to see the JAG first and, if its necessary, to see the General Counsel.

Things are working very well, The Army General Counsel under the Marsh administration was Del Spurlock, initially.

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