THE ARMY'S SCHOOL FOR ITS LAWYERS

By INZER B. WYATT

Major, Judge Advocate General's
Department, Army of the United States; Member of the New York Bar

The Army of the United States is today developing its strength from the total manpower and total skill of the nation. Many and varied are the talents which go into the building of this Army. Before the now memorable December 7, these talents for the most part were employed in the normal pursuits of peace and in consequence their effective adaptation to the needs of war requires a certain kind and amount of training. To supply an appropriate part of this training the several administrative branches of the Army have organized what now amounts to a complete educational system composed of a number of separate schools designed to qualify specialists for duty with the armed forces. Members of the Bar will have a particular interest in the Army's school for its lawyers, The Judge Advocate General's School, in the Law Quadrangle of the University of Michigan, whose purpose it is to train officers, selected on the basis of their legal education and professional experience in civil life, to act as judge advocates wherever needed.

The designation, "judge advocate," a military antiquity dating back to James II, is apt to be misleading. The judge advocate is today neither a judge nor an advocate. Rather he is a staff officer belonging to the Judge Advocate General's Department who advises on questions of law and supervises the system of military justice within a command. This work is of considerable importance as a part of the preparation for combat because, properly performed, it enables the machinery of administration and discipline to function in such fashion that troops and leaders are not distracted from their major responsibility—winning the fight.

The number and variety of questions of a legal character, or, at any rate, questions more readily answerable by one with legal training, which arise in the operations of the Army are surprisingly large, and arise in theaters of operations as well as in training areas. For example, after the Japanese attack on Hawaii, the judge advocate of the Hawaiian Department had to advise and to act immediately with reference to the establishment of martial law for the Islands. In other situations, a judge advocate might be called upon to advise the commanding general upon problems such as whether the Geneva Convention prisoners of war may be used to make camouflage nets, or whether an officer cited for contempt of court for failure to pay alimony should be delivered to the civil authorities, or whether WAACS are subject to trial by court-martial, or whether state laws governing construction must be followed in the erection of temporary buildings for Army use. In all such matters, and in all phases of the important subject of military justice, the advice of a military lawyer is well nigh indispensable. To provide this advice, a judge advocate serves on the staff of each division (roughly 15,000 men), corps (several divisions) and army (several corps), with task forces, at ports of embarkation and debarkation, at air bases, island bases, and at other military installations in the United States as well as in foreign places. A number of officers must at the same time be available for duty in Washington at the office of The Judge Advocate General, who acts as general counsel to the War Department. It is the mission of The Judge Advocate General's School to prepare officers for effective service at any of the posts indicated.

The creation of the school was a novel undertaking. During peace such a thing had not been necessary. The Regular Army officers commissioned in the Judge Advocate General's Department had extensive prior military training and service in addition to their legal
Quadrangle is now the scene of the activities of The Judge Advocate General's School. The facilities are most sparsely used in the buildings of its collegiate Gothic Law School at Washington in February, 1942, so remarkably complete that the full cycle of the course of training to afford the proper orientation and indoctrination for bridging the gap between civil and Army life.

The school was established ("activated" is the more military expression) at Washington in February, 1942, in premises made available through the kindness of National University Law School. The translation of idea to reality was largely the work of Brigadier General Edwin C. McNeil, Assistant The Judge Advocate General, Colonel Edward H. Young, and a small but enthusiastic group of officers of the Department. Both were graduates of the Military Academy, of considerable service and experience in the field. Colonel Young became commandant of the school and has continued to serve in that capacity with marked ability.

Washington was not an ideal location. While it was close at hand to expert lecturers from the Judge Advocate General's office and from other branches of the War Department, the overcrowded condition of the city was a distinct handicap. In September, 1942, a generous offer from the Regents of the University of Michigan and Dean Stason of its law school was accepted and the school moved into the Law Quadrangle at Ann Arbor.

While Michigan's Law School is continuing with the decreased enrollment to be expected in these times, most space in the buildings of its collegiate Gothic Law Quadrangle is now taken up by the activities of The Judge Advocate General's School. The facilities are so remarkably complete that the full cycle of the school's twenty-four hours can be lived within the enclosure of the Quadrangle. On one side are bachelor living quarters in a gabled dormitory from which the student officers are called early in the morning by the sharp notes of a bugle. Breakfast over, the student body is lined up in military formation and after the traditional roll call and morning report, is marched away to Hutchins Hall, on another side, for class work. This lasts the better part of the day, from 8 o'clock to 5 o'clock in the afternoon (Army time, 0800 to 1700) and afterwards there is infantry drill in the open spaces round about or hikes over a hilly course laid out to develop endurance. After dinner there is an opportunity for rest and fraternizing in the comfortable Lawyers Club and then back to quarters for the evening's study assignment. "Taps" is blown at eleven, not so much to compel as to remind. In the details of daily life, the military regimen is followed as closely as practicable to accustom the men to the atmosphere and conditions they will meet in the field.

The older officers among the students have been selected from the patriotic thousands of the profession in civil life who have offered to serve in the Judge Advocate General's Department. Many of them were in the last war. The younger officers, in keeping with the War Department's policy of filling positions where possible by advancement from the ranks, have been selected from lawyers already in the Army as enlisted men through the process of voluntary enlistment or under the Selective Service Act. Together these groups form a good cross-section of the American Bar.

The length of the course is ten weeks, devoted in about equal parts to the three major subjects of military training, military affairs and military justice. The substantial volume of work to be covered in ten weeks requires not only an intensity of effort but the use of methods of instruction designed to sustain interest through the long hours. Training films produced by the Army's program of visual education are much used. The records of actual courts-martial are reviewed and discussed. Practice courts, which might at first seem strange activity for experienced judges and lawyers, are conducted to make familiar the distinctive procedure of a court-martial. The command post exercise or "CPX," long employed in training combat officers, has been ingeniously adapted, with the aid of the paraphernalia of maps, communication instruments and office equipment, to require solutions to problems under the conditions found and within the time permitted in the field. "True or false" tests are frequent, but are used more to stimulate discussion than to grade performance. Lectures and conferences by staff officers are supplemented by guest appearances of distinguished officers from other branches.

The subject of military training, which is in charge of an infantry officer, includes a study of our entire military establishment. There are covered generally the history, organization, weapons and vehicles of the Army...
and the meaning of military leadership. In more detail there are taken up the duties of the general staff sections relating to personnel, intelligence, operations and supply; the administrative system used by the basic units—company and regiment; the fundamentals of infantry tactics; and the proper firing and use of the pistol and carbine, with one of which weapons all staff officers are armed when not in the zone of the interior. Modern war does not respect headquarters and even a judge advocate must be prepared to assist in its defense if need be. Extended order drill and practice marches for physical conditioning are part of the routine. This type of training is significant in the curriculum because the students, while already lawyers, are not soldiers. The amount of instruction given cannot, of course, make them finished soldiers but it does result in a valuable orientation. It is impossible to predict, in fact, just what duties the judge advocate may find himself performing in actual combat. He shares all the experiences of his unit but in battle his military law office is necessarily closed for some periods. He is then frequently busy in one of the general staff sections, often the G-2 section; at other times he may be used as a liaison officer.

Grouped under the general heading of “Military Affairs,” is a wide range of legal topics which are studied through conferences and applicatory exercises. The treatment of these subjects, concerning which the student officers already have some general knowledge, is sharply pointed toward the types of problems most often met with by the military lawyer in the field. They include taxation and contracts as related to Army activities in the United States and on foreign soil; claims against the Government based on alleged damage caused by the uniformed forces (including claims under the comparatively new Foreign Claims Act which was adopted to promote friendly relations in allied foreign countries where our troops may be quartered); and certain parts of international law presently important because of the complex of sovereignties in which our campaigns are now progressing in North Africa and the South Pacific area. With respect to these general subjects and, in fact, in most of the work of the school, the basic effort is to familiarize the students with the content and use of the sources of authority—statutes, executive orders, proclamations, War Department directives and Army Regulations, this last, of necessity, an enormous collection of detailed requirements governing all phases of military life. In addition, much attention is devoted to a study of the best way to help soldiers with their personal legal affairs which, unless promptly handled, will induce worry and bring about a consequent impairment of efficiency and morale. Some of these problems are affected by recent statutes such as the Servicemen’s Dependents Allowance Act (Public 625—77th Congress), the Soldiers’ and Sailors’ Civil Relief Act (Public 861—76th Congress) with its latest amendments known as the Sparkman Act (Public 732—77th Congress) and the series of enactments facilitating the naturalization of aliens serving honorably with the armed forces. The War Department in its interesting pamphlet, Personal Affairs of Military Personnel and their Dependents, has fully recognized the soldier’s need for legal counsel in his uncertain circumstances. In this connection also, the American Bar Association’s local Committees on War Work, as readers of current reports are aware, perform a great and patriotic service.

Probably the most intensive work of the school is in the field of military justice, always an important subject but more so in this war than ever before. We have more men under arms today than at any time in our country’s history. Each of these men, from the moment he leaves civilian life, becomes subject to military law and, if required to answer for an offense, to the jurisdiction of a court-martial. The Army population living under a system of military justice is greater than the population of many of the states. It is essential therefore that this system operate with a maximum of fairness and efficiency. Moreover, while just punishment of offenses is necessary to effective discipline within the Army, there is another aspect to consider. Under present conditions of global warfare, our troops are quartered in many of the far off lands of our allies. There they come into frequent contact with friendly civilian populations and are the visible representatives of our country and cause. Under principles internationally accepted our Army “carries its law with it.” The members of our Army in foreign countries are, therefore, subject only to the jurisdiction of the United States, even as to conflicts with the friendly foreign population. In these circumstances the continued existence of good will, an essential of success, requires that the quality of our military justice be such as to command the respect of the foreign civilian community.

The basic code for the “Government—of the land-Forces” (Constitution, Article I, Section 8) is found in the Articles of War (Act of June 4, 1920; 41 Stat. 787; Title 10 USCA 1471). The practice and procedure under the Articles are contained in the Manual for Courts-Martial, a 200-page volume of highly compressed content published under direction of the President under authority conferred by the statute. The Manual and the governing Articles are studied at the school in detail; they are the starting points of the administration of military justice.

The Judge Advocate General’s School feels, however, that the spirit required for the best administration of military justice today is not gained from mere knowledge of the tools of the trade, however essential this may be. What is needed is a point of view educated to


(Continued on page 177)
A N Association of Czechoslovak Lawyers has been established in Great Britain by a number of Czechoslovak lawyers and advocates who, after the dismemberment of their country in September 1938, and its occupation by the Germans in March 1939, managed to find refuge here. Prior to the foundation of the association some of its members were engaged in the study of problems connected with the reconstruction of the modern and democratic legal system in Czechoslovakia after the war, and of other questions which will present themselves immediately after the cessation of hostilities—and at the peace conference—to the jurists of the Allied Nations. The consideration which led to the establishment of the association was the realization that endeavours made by individuals in this respect would be more efficiently promoted by team work in committees, lectures, debates, etc. The association consists of about one hundred members, and it is their expressed desire for close relations and cooperation with British and other Allied jurists in solving the problems which will undoubtedly arise immediately after the war. In a Europe in which all law and administration of justice, as understood by civilized nations, has ceased to exist, the role to be played by lawyers and jurists of the Allied Nations will be an important one, and it is hoped that all Allied lawyers and their organizations will establish contact with the association, with a view to scientific cooperation.

Calls to the Bar

The number of students called to the Bar this term shows an increase of eight over those of last term. At Lincoln's Inn there were three, the Inner Temple had four, Gray's Inn, sixteen, and the Middle Temple, seventeen. Of these forty, ten were from India and nine from other parts of the Empire. It is interesting to note that the list of those called at Gray's Inn includes the names of a detective inspector of the Metropolitan Police, a sergeant in the Derbyshire Constabulary and a constable in the Lancashire Constabulary. This is not the first time that members of the police force have been called to the Bar (a police sergeant was called at the Middle Temple in 1935) but never before have three been present at one call.

Welsh Courts Act

On the 22nd October, 1942 the Royal Assent was given to the Welsh Courts Act which was passed “to remove doubts as to the right of Welsh speaking persons to testify in the Welsh language in Courts of Justice in Wales, and to enable rules to be made for the administration of oaths and affirmations in that language, and for the provision, employment and payment of interpreters in such Courts.” The doubt referred to has existed since the passing of an Act in the 27th year of Henry viii (Ch. 26) “for law and justice to be administered in Wales in like form as it is in this Realm.” That Act, after noting that the Principality and County of Wales justly and righteously is united and subject to the Imperial Crown of this Realm, goes on to state that notwithstanding because that divers rights, usages, laws and customs be far discrepant from the laws and customs of this Realm, and also because the people do daily use a speech nothing like, ne consonant to the natural mother tongue used within this Realm, some rude and ignorant people have made distinctions and diversity between the subjects of both countries. With a view to putting an end to such diversities, and out of the “singular zeal, love and favour” which the King bore to his subjects, it was provided, inter alia, that “all Sessions Courts, Hundreds, Leets, Sheriffs Courts and all other Courts should be kept in the English tongue; and all oaths of officers, juries and inquests, and all other affidavits, verdicts and wagers of law, to be given and done in the English tongue.” It was also enacted that no one should occupy any office within the Realm unless the English language was used, under pain of forfeiting such office.

In October 1941 a petition, signed by nearly 400,000 residents of Wales, was presented to Parliament for the repeal of these offensive limitations upon the freedom of our Welsh fellow-countrymen, and the new Act is the outcome of that petition. It provides that the Welsh language may be used in any court in Wales by any party or witness who considers that he would otherwise be at any disadvantage by reason of his natural language being Welsh. Oaths or affirmations may also be made in the Welsh language, and interpreters of the Welsh and English languages may be employed, and paid out of local or public funds, for the purposes of proceedings before courts in Wales. This latter provision was included in the Act as it was held that it would be quite wrong to impose any financial disability upon anyone as a result of his speaking Welsh. Records of all proceedings in the Welsh courts will still be kept in English, as they may be required at a later stage on appeal.

Statute of Frauds

In the course of a judgment in the Court of Appeal recently, Lord Justice MacKinnon gave expression to his views on the Statute of Frauds in the following words: “Two hundred and sixty-five years ago, in the reign of Charles ii, Parliament in its wisdom passed an Act entitled 'An Act for the Prevention of Frauds and Perjuries.' I do not know how far its aim to prevent perjuries has been successful. As regards its other expressed aim it is notorious that
turpitude such as would forfeit the offender's right of continued association with honorable men, it is to the evident interest of the Army that the offender be restored to duty as promptly as consistent with the maintenance of good discipline. For this purpose the War Department has recently (December, 1942) established a rehabilitation center in each of the nine Service Commands to supplement the work carried on for many years at the Disciplinary Barracks, Leavenworth, Kansas, with a view to restoring convicted soldiers to service. Principles of penology, such as the suspended sentence, probation and the individual treatment of offenders, have long been standard in the administration of the Army's penal institutions.

The Judge Advocate General's School was called into being to meet a particular need of this war. When, with the near approach of victory, that need has passed, the school will cease to exist, but it will have left an indelible impress, not only on its graduates, not only on the Army that will be maintained after the present war, but on all those with whom its graduates have dealt, on all those millions of citizen soldiers who have been taught by precept and example alike that our American ideal of "Equal justice under law" finds full expression in the Army.

The real objective of military law—maximum manpower through maximum discipline. The soldier in the guardhouse may be receiving his just deserts but he is of no use to the Army while there. The judge advocate must encourage officers of all branches to appreciate that the court-martial is not a substitute for leadership and that a trial on charges should be the last resort. The 104th Article of War enables the exercise of firm control without the intervention of a court-martial by authorizing the company commander himself to impose punishment for minor offenses. It is commonplace in the Army that the best units have few trials. In the next place, every effort must be made to salvage manpower from those convicted by court-martial and sentenced to confinement. Where the offense does not involve moral