

Judge Advocates in the Great War 1917-1922



By Fred L. Borch III

Introduction

The genesis for *Judge Advocates in the Great War 1917-1922* was my discovery more than 25 years ago that the National Archives and Records Administration (NARA) had in its files short biographical summaries of every commissioned officer (and a few enlisted legal clerks) who had served in the Judge Advocate General's Department (JAGD) in World War I. These summaries had been produced as part of a proposed *Judge Advocates Record of the War* that was going to be privately published at the cost of \$5.00 per copy—a sort of “Yearbook” that would provide a lasting record of service in the Great War. The *Record of the War* was never completed—no one knows why (or least there is no explanation in the NARA files)—but fortunately the biographical summaries were not discarded, but instead were preserved by NARA. My belief is that no other branch in the Army attempted such a project and consequently the Corps probably is unique in being able to identify all the individuals who served as judge advocates in World War I.

Accompanying some of these one paragraph biographical summaries were “Questionnaires” that had been filled out by each individual who wore the crossed-sword-and-pen insignia. These questionnaires, from which the biographical summaries had been created, often are quite detailed. Since all those who served in the JAGD in World War I have long since passed from the scene, this information was immensely helpful in reconstructing who did what and where he did it in the United States or Europe.

In early 1916, there were seventeen lawyers in the Judge Advocate General's Department. Four years later, there were more than 425 judge advocates on active duty. This unprecedented increase in uniformed attorneys, which had resulted from the rapid expansion of the Army after April 1917, had required Judge Advocate General (tJAG) Enoch Crowder and his staff to recruit hundreds of civilian lawyers and bring them on active duty. This alone was a daunting task. Additionally, many of these lawyers had no military experience and, having been directly commissioned from civilian life, knew little if anything about soldiering or the Army. Finally, there was no Judge Advocate General's School at which these new Army attorneys could learn even the basics of military law, much less textbooks or other written sources on the practical aspects of being a lawyer in uniform. It follows that what judge advocates accomplished in the United States and overseas in World War I is remarkable. Consequently, the theme of *Judge Advocates in the Great War 1917-1922* is that despite the rapid expansion in the number of uniformed lawyers after the United States declared war on the Central Powers, individual judge advocates consistently demonstrated that they were not only superb lawyers but also outstanding soldiers, and the JAGD proved its value as an Army institution.

The principal goal of *Judge Advocates in the Great War 1917-1922*, however, is not to present a comprehensive history of legal operations in World War I, as that could easily be a multi-volume work. Rather, the goal of this monograph is to identify each and every lawyer—and some legal

clerks, where possible—who served in the JAGD between 1917 and 1922. Consequently, while a relatively small number of Army lawyers are discussed in the chapters covering legal operations in the United States and overseas, every single judge advocate is listed in Chapter 6 of this book. Additionally, Chapter 7 contains biographical sketches of the soldiers who are known to have been legal clerks in the JAGD in World War I.

Judge Advocates in the Great War 1917-1922 is organized by geographic location. After an introductory chapter on the U.S. Army in World War I, including some discussion of how the JAGD was organized, Chapter 2 looks at what judge advocates did in the United States, with a focus on the Office of the Judge Advocate General in Washington, D.C. and the infamous courts-martial arising out of the Houston Riot in 1917—and the resulting controversy over the future of military justice that pitted tJAG Enoch Crowder against his colleague, Acting tJAG Samuel Ansell.

Chapter 3 details legal operations in the American Expeditionary Forces (AEF) in France. Chapter 4 examines what judge advocates did in North Russia and Siberia between 1918 and 1920, a little-known episode in military legal history. Post-war legal operations in France and Germany between 1918 and 1922 are covered in Chapter 5, with a focus on what judge advocates did while part of “American Forces Germany” during the post-surrender occupation of some 2,500 square miles of Germany. (The last U.S. troops left Germany in January 1923, but as the last Army

lawyer departed in 1922, this monograph ends with that year.)

Chapter 6 contains biographical sketches of judge advocates, and Chapter 7 provides details on legal clerks known to have been on duty with the Department during the war. A short conclusion, bibliography and index completes the monograph.

In writing this monograph, I have relied heavily on primary sources from NARA as well as official reports published by the Congress, the Army and the JAGD during and after World War I. The 1917, 1918, and 1919 *Reports of The Judge Advocate General of the U.S. Army to the Secretary of War* are the official annual summaries of legal operations and are especially valuable. The 1919 and 1920 congressional hearings on the Articles of War, for example, are key to understanding the controversy over military justice that arose after 1917, as is Major General Crowder’s *Military Justice During the War, A Letter from the Judge Advocate General to the Secretary of War*. The role played by judge advocates in administering the first war-time draft since the Civil War is set out in great detail in Major General Enoch Crowder’s *Second Report of the Provost Marshal of the United States to the Secretary of War on the Operation of the Selective Service System*. Similarly, Chapter 5 (“Judge Advocates in Post-War France and Germany”) could not have been written without the official report titled *American Military Government of Occupied Germany 1918-1921*, as this document contains an entire chapter on legal operations in the occupied Rhineland area of Germany.

As for secondary sources, *The Army Lawyer: A History of the Judge Advocate General’s Corps* has a good overview of legal operations in World War I. Of greater

value, however, is Joshua Kastenberg's *To Raise and Discipline an Army*. This book contains a wealth of information about judge advocates in the AEF and in the post-war occupation of Germany. Kastenberg, a retired Air Force judge advocate who now is a professor of law at the University of New Mexico, is to be commended for his research and writing on World War I era judge advocate history. Any reader who wants to know more about Army legal operations in World War I should consult Kastenberg's fine book.

A note on enlisted personnel who served as legal clerks in World War I and their history. Prior to 1918, no enlisted soldiers were members of the JAGD. All uniformed personnel in the Department were judge advocates (officers), and legal clerk duties were performed by civilian employees. It was not until nearly a year after the outbreak of war, however, that the Army authorized enlisted soldiers in the JAGD, but only for "the period of the existing emergency." Ultimately, there were sixty-one enlisted legal clerks in the Department, but other than identifying some of these men in Chapter 7, little is known about what they did or where they did it. Consequently, while this monograph does identify some of these men by name, and give some biographical details on them, their participation in legal operations in the United States and overseas is not addressed in any detail. In any event, all enlisted legal clerks were discharged (or released from the JAGD) after World War I and the Judge Advocate General reported that there were no enlisted men in the JAGD as of June 30, 1921.

Finally, *Judge Advocates in the Great War 1917-1922* would not have been possible without the support of Lieutenant

General Charles N. Pede, whose love of military legal history and insistence that a book be written about Army lawyers in World War I is directly responsible for this monograph. Additionally, the dedication of Major Laura A. O'Donnell and Ms. Danielle McGuffin deserves the highest praise. Major O'Donnell, an immensely talented lawyer and writer, spent hours editing the manuscript and correcting grammatical and other errors. Laura also made frequent suggestions on how to improve the manuscript. Ms. McGuffin used her fabulous talents as a graphic designer to transform the manuscript into a publishable monograph. Danielle also deserves the credit for designing the cover for the book. A special thanks also to my longtime friend and colleague, Colonel (retired) Patrick D. O'Hare, who read every chapter and provided helpful comments and criticism.

There is much more research and writing to be done on the subject of judge advocates and legal clerks in World War I, and so this very short monograph only "opens the door" to future scholarship. As for any errors in this book—of which there are certain to be some—these alone are my responsibility.

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