



COL Jack Durant, center, with his wife, CPT Katherine Burke Nash, right, arrives in Frankfurt, Germany, to face charges related to the theft of jewels belonging to the House of Hesse. (Credit: U.S. Army/National Archives)

Lore of the Corps

The German Job

Theft of Hesse Jewels in WWII Led to High-Profile Courts-Martial

By Fred L. Borch III, Regimental Historian & Archivist

In the aftermath of World War II, the theft of gold, silver, and jewels belonging to the German aristocratic House of Hesse triggered an intensive criminal investigation and resulted in three high-profile courts-martial. When it was all over, Colonel (COL) Jack W. Durant, Major (MAJ) David Watson, and Captain (CPT) Kathleen Burke Nash were all in jail.¹

In February 1946, less than a year after war had ended in Germany, Princess Sophie of Greece was preparing to marry Prince George Wilhelm of Hanover. The bride

was to wear the Hesse family jewels during the ceremony, but when a servant was sent to retrieve the jewels from their hiding place in the Hesse family castle, Schloss Friedrichshof at Kronberg, they were gone—and presumed stolen.

Countess Margaretha, the reigning matriarch of the Hesse family, knew that all property in Kronberg castle was personal family property and so could not be seized like the assets of defeated Nazi Germany. Consequently, she went to the provost marshal in Frankfurt, and shortly thereafter

the Army's Criminal Investigation Division launched an investigation. It soon discovered that a year before, when General George S. Patton's 3rd Army had been in the area, a Women's Army Corps officer, CPT Kathleen Burke "Katie" Nash, had been assigned to manage the castle as an officers' club. In November 1945, while exploring the massive structure, Nash saw a fresh patch of concrete on the floor of the wine cellar. Apparently, she also had heard a rumor that jewels, gold and silver were buried in a secret place in the castle. In any event, when Nash and two members of her staff chipped through the concrete, Nash discovered a zinc-lined box filled with small, neatly wrapped packets containing gold, silver, and jewels. It was literally a discovery of buried treasure—worth more than \$2.5 million.

Nash retrieved some of the loot. She also shared her secret with "J.W." Durant and Watson. Together the three officers then conspired to steal the remainder of the tiaras, bracelets, and other valuables. Realizing that they would likely be caught if they tried to smuggle the treasure back to the United States in its present form, the three conspirators removed the precious stones from their settings and set them aside to be sold later; they sold or pawned the gold and silver mountings. Watson travelled to Northern Ireland in November and December 1945, where he "pawned a large quantity of gold; he also gave a few baubles to a former girlfriend in Belfast."² Durant and Nash did their part in January 1946 by journeying to Switzerland and selling gold and jewels in Bern, Basel, and Zurich.

As for what they had decided to keep for themselves, the trio used the Army post office system. Watson mailed a sterling silver pitcher home to his parents in California. Nash sent a thirty-six-piece solid-gold table service—as well as a large number of jewels—to her sister in Wisconsin. Durant sent jewels and other valuables using envelopes stamped "Official" and by diplomatic pouch; most went to his brother in Falls Church, Virginia. All in all, some thirty boxes of treasure were sent to the United States.³



Some of the recovered items from the House of Hesse shown during court martial proceedings. (Credit: U.S. Army/National Archives)



COL Durant, center, with his two defense attorneys. (Credit: U.S. Army/National Archives)

By May 1946, the Criminal Investigation Division agents had caught up with the three culprits. Watson was apprehended in Germany. Durant and Nash, who had married on 28 May, were arrested at the luxury La Salle hotel in Chicago on 2 June. The timing of their marriage was not a coincidence: both Durant and Nash understood that a husband and wife could refuse to testify against each other in court-martial proceedings. But Nash

also hoped to escape trial because she was expecting to be honorably discharged. Unbeknownst to Nash, however, the Army had cancelled her separation orders and so she remained on active duty and subject to court-martial jurisdiction.

A few days later, nearly a million dollars in recovered Hesse family treasure—which the Army insisted was “a mere pittance” compared to the total value of the missing property—was displayed at the Pentagon.

Shortly thereafter, the Durants were flown to Frankfurt, Germany, where they both faced trial by general court-martial.

Katie Nash Durant was the first to stand trial. Charged with being absent without leave, larceny, fraud against the government, conduct unbecoming an officer and gentleman, and bringing discredit upon the military service, she appeared before the court panel in a uniform without any insignia, and refused to enter a plea. Her defense counsel, CPT Glenn Brumbaugh, insisted that the court lacked *in personam* jurisdiction because the Army had rescinded her separation orders solely to maintain jurisdiction over her. He also argued that, even if the court-martial had jurisdiction over her person, Nash was not guilty of any offenses involving the Hesse jewels because the Hesse family had abandoned the treasures or, alternatively, that the jewels were legitimate spoils of war. Major Joseph S. Robinson, the trial counsel, countered:

It is our obligation to see to it that private property in enemy territory we occupy be respected, and that any interference with such private property for personal gains be justly punished.⁴

The court agreed. It found Nash guilty and sentenced her to five years in jail and a dismissal.

Watson was next. His defense was that looting was common in Germany and that, as the treasure belonged either to dead Nazis or S.S. members, the property could not be returned to them. In any event, argued Watson, he lacked the criminal intent to steal anything. In his summary to the panel, CPT Abraham Hyman, the trial counsel, reminded the court that it could not blind itself to the fact there were people who took advantage of abnormal conditions in occupied Germany. However, there is also the precedent of millions of Soldiers who went through the war without yielding to the temptation to take things which did not belong to them.⁵

The court of ten colonels agreed with Watson, at least in part. But, while they found him not guilty of larceny, the panel members convicted him of the remaining offenses, including receiving stolen property. He was sentenced to three years in jail and a dismissal.

"J.W." Durant was the last to go to trial. In a court-martial convened in Frankfurt, but concluded in Washington, D.C., COL Durant was found guilty of all charges. He was sentenced to fifteen years confinement at hard labor and a dismissal.

On 1 August 1951, Headquarters, European Command Army, announced that:

The Department of the Army, in cooperation with the Department of the Treasury, today returned to their owners the Hesse jewels, which have been in the custody of the United States since 1946 . . . Involved in the turnover were jewels filling 22 cubic foot Army safes and consisting of more than 270 items. Among the jewels were: a platinum bracelet encrusted with 405 diamonds, a platinum watch and bracelet with 606 diamonds, a sapphire weighing 116.20 carats, a group of diamonds weighing 282.77 carats, a gold bracelet with 27 diamonds, 54 rubies and 67 emeralds. . . .⁶

Despite this press release, more than half the Hesse jewels, and most of the gold and silver that had been hidden in the wine

War Crimes Archive Initiative at William Winthrop Memorial Library

By Fred L. Borch

When LTG Pede officially dedicated the "William Winthrop Memorial Library" at the Legal Center and School in September 2018, he emphasized that the newly named library would be "the destination library for war crimes research."

The library is off to a good start in achieving this goal, as it already has an extensive collection of war crimes related documents. These include: the record of trial in the military commission proceedings against the German U-boat saboteurs (better known as *Ex Parte Quirin*); records from the trials of major war criminals at Nuremberg; the Report of the Deputy Judge Advocate for War Crimes, European Command (June 1944-July 1948); the Malmedy Massacre Investigation Subcommittee Hearings; the record of trial in the case of General Yamashita; and the Judgment of the International Military Tribunal for the Far East (Toyko).

As for more recent war crimes materials, practitioners and scholars will be interested to know that the library has the record of trial in *United States v. Calley*, along with memorabilia from Judge Reid Kennedy, who presided over the trial, and Aubrey Daniel, the lead trial counsel in *Calley*. A copy of the official inquiry into the killings at My Lai, which was conducted by a team headed by LTG William R. "Ray" Peers also is available.

While 'hard-copies' of these documents are housed in our Regimental Archives, much of this material has been digitized and is available on line at the Library of Congress at https://www.loc.gov/rr/frd/Military_Law/military-legal-resources-home.html.

In the near future, the Winthrop Memorial Library will be obtaining documents and related materials from David M. Crane, who served as the Chief Prosecutor for the Special Court for Sierra Leone. Crane, who served as a judge advocate and retired as a lieutenant colonel, was appointed as Chief Prosecutor and Undersecretary General of the United Nations by Secretary General Kofi Annan in 2002. Our acquisition of LTC Crane's war crimes materials is extremely important, as his experiences as the founding prosecutor for this United Nations tribunal are unique in military legal history.



(Credit: U.S. Army/National Archives)

cellar, were never recovered. To this day, no one knows what happened to this missing treasure.

As for Nash, Watson, and Durant, they served their sentences at the Disciplinary Barracks, Fort Leavenworth, Kansas, and were then released. Watson was the first to be freed; he was paroled in 1947. When he died in 1984, he was "still petitioning for a presidential pardon."⁷ Nash and Durant were both released in 1952; they spent their remaining days together before dying in the mid-1980s. **TAL**

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Notes

1. *United States v. Kathleen Nash Durant*, CM 317327; *United States v. David F. Watson*, CM 319747; *United States v. Jack W. Durant*, CM 324235 (on file with Records of the Office of the Judge Advocate General, Record Group (RG) 153, M1899).
2. Stephen Harding, *Soldiers of Fortune: The Hesse Jewel Heist*, *WORLD WAR II* (March 2009), <http://www.historynet.com/soldiers-of-fortune.htm> (last visited July 19, 2011).
3. *JUDGE ADVOCATE GENERAL'S CORPS, THE ARMY LAWYER* 172 (1975).
4. *Id.* at 173.
5. *Id.*
6. Court-Martial Case Files Relating to the "Hesse Crown Jewels Case," 1944-1952 (on file with Records of the Office of the Judge Advocate General (Army), Record Group 153, Pub. No. M1899, Nat'l Archives, Washington, DC).
7. Harding, *supra* note 2.



J. Clay Smith Jr., pictured left. (Photo courtesy of Fred Borch)

In Memoriam

Remembering Recently Departed Judge Advocates

By Fred L. Borch, Regimental Historian & Archivist

J. Clay Smith Jr. and Togo West Jr.

Two prominent African-American attorneys, both of whom served in our Corps in the late 1960s and 1970s, recently passed away. By a strange coincidence, they were both born in the same year, only months apart, and died within days of each other. Both attended the same Judge Advocate Officer Basic Class in 1969, and both went on to have extraordinarily successful careers in law and in government.

John Clay Smith Jr. was born in Omaha, Nebraska, in April 1942. He attended Creighton University, where he participated in the Reserve Officer Training Corps program and was commissioned as a second lieutenant in the Adjutant General's Corps after graduating in 1964. He then entered Howard University's law school, where he was class president and graduated in 1967.

Then Captain Smith entered our Corps in 1969, and served four years of active duty

as a judge advocate before leaving active duty in 1973. The following year, he joined the Federal Communications Commission, where he later served as associate general counsel. In 1978, President Jimmy Carter named him to the Equal Employment Opportunity Commission (EEOC), where he made a name for himself supporting guidelines that protected underrepresented populations in the workplace. Dr. Smith (in addition to his law degree, he had a doctorate from George Washington University) was particularly concerned about sexual harassment in the workplace, which he insisted was "not a figment of the imagination" but a "real problem." In 1980, Dr. Smith made history when he was elected national president of the 15,000 member Federal Bar Association, the first African-American to hold the office.

After leaving the EEOC, Smith joined Howard University's law faculty and served as law school dean from 1986 to 1988. He worked tirelessly to enhance Howard's reputation in the legal community and brought in much needed financial support for the law school. Smith also wrote a book about early black lawyers titled *Emancipation: The Making of the Black Lawyer, 1844-1944*. Dr. Smith retired from Howard in 2004. He died in Washington, D.C., on 15 February 2018 from complications of Alzheimer's disease. He was seventy-five years old.

Born in Winston-Salem, North Carolina, in June 1942, Togo Dennis West Jr. graduated from Howard University in 1965 and then went on to receive his law degree from that same institution in 1968. West entered the Corps in 1969, in the same Judge Advocate Officer Basic Class as Smith. But while Dr. Smith served his tour in our Corps in uniform, Captain West entered the Honors Program in the Department of the Army Office of the General Counsel. Consequently, he spent the next four years in the Pentagon in a coat-and-tie, and dealt with a multitude of complex legal issues of importance to the highest levels of the Army.

When he finished his active duty obligation in 1973, West entered the civilian world. He returned to government service under President Jimmy Carter, when he was the top lawyer in the Department of the Navy and the Defense Department.