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THE COURT OF MILITARY APPEALS— ITS HISTORY, ORGANIZATION AND OPERATION

DANIEL WALKER* AND C. GEORGE NIEBANK†

When a civilian "supreme court" for the review of court-martial convictions was first proposed in Congress, it evoked immediate, vociferous and emotional reactions from those most directly concerned with military criminal law. Vigorous opposition came from the traditional militarist, who argued that there was no place for civilians in a military procedure, and that creation of such a court would place unnecessary emphasis on civilian influence. It was said that military effectiveness would be unduly restricted and that the nonmilitary mind would not be able to appreciate fully the military problems often involved in court-martial cases. Some of these officers also predicted that such a court, organized along traditional appellate lines, would not be able to cope with the tremendous volume of cases that would come before it.

On the other side were the adherents of the Court proposal — composed principally of civilian lawyers and veterans, speaking through their national organizations, who had, from experience, acquired a distaste for the court-martial system. Congressmen representing this viewpoint hailed the Court as the "most vital element" in the reformation and unification of military criminal law brought about by the Uniform Code of Military Justice. It was stated that the legislation creating the Court embodied the "most revolutionary changes which have ever been incorporated in our military law."

The Court has now been in existence for something more than a year. Enough time has passed to enable the interested, nonprejudiced observer to form a preliminary evaluation of this new addition to the judiciary. He will probably conclude that the actual result — as is usually the case — lies somewhere between the pre-birth claims and arguments of the proponents and opponents.

To others must be left the task of examining for this symposium the principal product of the Court — its written opinions. In this article we propose to spell out its development, organization and operation. Taken together with the information concerning the Code and the Court appearing elsewhere in this issue, it may enable the reader to form a preliminary judgment as to the desirability and efficacy of civilian review of court-martial convictions.

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HISTORICAL BACKGROUND

To understand the operation of the Court, it is necessary that it be placed in context, that it be considered in light of the historical development of the concept of post-trial review of court-martial convictions. The Court is, of course, the product of a reform movement, and, as such, did not come into being overnight, but was produced by the slow-working catalyst of experience. Its roots lie in the historical development and improvement of military criminal law, a history that is marked by repeated conflicts between military commanders and interested civilians. These conflicts were, however, relatively minor altercations until the twentieth century, when large citizen armies in two World Wars brought millions of Americans, including many lawyers, into intimate contact with the court-martial system.

As is well-known, courts-martial have traditionally been regarded as a disciplinary command function. They have long been thought by the military — and some apparently still hold to this view — to be not courts at all, but agencies of the commander to investigate facts and recommend disciplinary action. In practice, there was little inclination to give undue consideration to rights of accused persons. All who have been in the service know of the sometime prevalent view that "only the guilty are brought to trial anyway, so why bother about the formalities." Until relatively recent years, courts-martial were governed not by principles of law, but by the whims and desires of the commander who appointed the court. As the Judge Advocate General of the Army put it in 1919, "The fittest field of application for our penal code is in the camp. Court-martial procedure, if it is to attain its primary end, discipline, must be simple, informal, and prompt . . . ."

This emphasis upon quick and effective punishment for wrongdoers naturally carried with it opposition to the introduction of effective and thorough legal appellate review of court-martial convictions. From 1776 to the First World War, post-trial review was limited in most cases to the action of the "convening" or "appointing" authority — the military commander who appointed the court. Only dismissed officers, general or flag officers and those under penalty of death were entitled as of right to high-level post-conviction review. Even after The Judge Advocate General of the Army assumed the power to review all general court-martial cases during World War I, his action was limited to making "recommendations" to the convening authority — recommendations which that officer could — and quite often did — reject if he so desired.

Civilian concern became a major factor during the First World War. Congress made an exhaustive study of the system and in 1920 made substantial changes, some of which merely codified improvements effected through administrative action during the war. Statutory au-

thority was provided for creation of service Boards of Review in the office of The Judge Advocate General of the Army. These boards were required to review all court-martial convictions that resulted in sentences including disciplinary discharges, confinement for one year, or anything more severe. It was also required that a convening authority obtain the advice of his legally trained staff officer before taking post-trial action on any case. These were major steps forward, but it should be noted that these changes affected only the Army. The Navy operated under an almost completely unaltered set of Articles for the Government of the Navy from 1862 until the Uniform Code of Military Justice became effective in 1951.

Unfortunately, the 1920 changes, even with minor amendments made between then and the inception of World War II, did not remove all, or even most, of the system's deficiencies. Many accounts of injustices, not remedied on review, became public during the late war. Civilian lawyers in uniform were appalled at the operation of the military criminal system. Most vigorously criticized of all was the concept of "command control." Many observers — and participants — felt that giving to one officer the power to decide which cases should be tried, which court they should be referred to, which officers should sit on the court, which officers should represent the Government and the accused, and which cases should be approved or disapproved on review, was completely indefensible. It was pointed out that the future careers of officer-participants in the criminal prosecution scheme were dependent, to a great extent, upon the convening authority. By controlling privileges, duties, promotions and fitness reports, he could effectively control any court created under his command.

Bar associations and veterans organizations became aroused as never before. The first result was a series of studies initiated by the military and by Congress, which culminated in the Elston Act of 1948, applying to the Army many of the reforms later made applicable to all the services by the Uniform Code of Military Justice. After a year of operation under this statute, Congress deliberated on and passed the Uniform Code of Military Justice, which provided the new addition to the judiciary, the "GI Supreme Court."

As already noted, the Court was not created without considerable conflict. At the time of its creation, there already existed in The Judge Advocate General of the Army's office a Judicial Council — a "super" Board of Review. Many of the military witnesses before Congress advocated that such a judicial council be made the top reviewing authority under the Uniform Code. Others proposed that the three Judge Advocates General sit together as the supreme reviewing agency. Many proponents of the Court wanted it to be civilian and to have jurisdiction — automatic — over all court martial convictions, with

power to consider both questions of law and fact. This latter proposal met considerable opposition, both from those who wanted to limit the power of the Court and from those who genuinely felt that such broad jurisdiction would so overburden it with cases that it could not properly perform its primary function as a body to enunciate carefully and soundly reasoned principles of military law, much less act in any supervisory capacity over the operation of the new Code.

Organization and Jurisdiction

The final result was something of a compromise. The civilian court was created, but its jurisdiction, as will be noted in detail later, was somewhat limited. The law provides for three judges on the Court — each to be appointed by the President from civilian life for terms of fifteen years —the first three to have staggered terms of fifteen, ten and five years. There is no requirement of — nor any prohibition against — prior military service by the appointees. The three judges chosen by President Truman are Chief Judge Robert E. Quinn, Judge George W. Latimer and Judge Paul W. Brosman. Chief Judge Quinn previously served as Governor of Rhode Island, as a Judge of the Rhode Island Superior Court, and has acted as a Navy legal officer during World War II. Judge Latimer came to the Court from his position as a Justice of the Supreme Court of Utah. Prior to that, he had served as a Colonel in the Field Artillery and General Staff Corps of the National Guard and Army of the United States. Judge Brosman was formerly Dean of the Tulane Law School and has a military background as an Air Force Judge Advocate.

The jurisdiction of the Court is limited. An accused can petition for review from a Board of Review decision if the sentence, as finally approved, extends to a bad conduct discharge or confinement for one year or more. The Court has discretion to grant these petitions on "good cause shown." The Judge Advocate General of a service (and the General Counsel of the Treasury Department, acting in peacetime for the Coast Guard) may certify to the Court any decision of a Board of Review. Hearing is mandatory in these cases. Finally, cases with sentences involving the death penalty or affecting a flag or general officer must be reviewed. The Court's action is limited to questions of law, and, on factual issues, to the usual standard of appellate review.

The Court is located in Washington, D.C., in the building formerly occupied by the United States Court of Appeals for the District of Columbia Circuit. It is placed, by statute, in the Department of Defense, but for administrative purposes only; judicially, it is independent. Presently it is staffed by approximately 40 employees. Its organization can best be explained by following a case through the various channels.

After a Board of Review has passed on — and affirmed — a court martial conviction, the accused is notified of the decision. He is told, in writing, of his right to petition the Court of Military Appeals for review within 30 days. If he decides to exercise this right, the petition is filed by appellate defense counsel from the office of the Judge Advocate General of the service concerned or by civilian counsel retained by the accused. Sometimes — but not always — this will be the same counsel who represented him before the Board of Review. Counsel must file with the Court, as required by its rules, a petition setting out the facts of jurisdiction together with a short brief containing the issues of law, appropriate citations and necessary arguments. Appellate Government counsel, also appointed by the Judge Advocate General, is thereafter allowed 15 days to file an answer to the petition.

Once the petition and answer have been received, the briefs and record are forwarded to the Commissioners' office. The Court has, by statute, 30 days in which to dispose of the petition. Customarily, the Commissioners prepare memoranda on the case for circulation along with the record and allied papers to the three judges. Aiding the Commissioners in this task is a staff of several Legal Assistants. Not content with relying solely upon service review, the Court insists that in this preliminary stage each record be carefully scrutinized for errors possibly overlooked by counsel. A substantial number of cases have already been decided on issues raised by the Court itself.

The Court, of course, makes the decision whether to grant or deny the petition — a majority vote controlling. If it is denied, the accused and the service concerned are notified and the case is completed. If the petition is granted, the Court may specify an "open" grant, or it may limit argument to certain specified issues. The order granting is sent to the service and a copy to the accused. Counsel are then required to file formal briefs on the issues. After the briefs are in, the case is set for oral argument in the usual appellate manner. Prior to argument, the Commissioners again carefully peruse the record and prepare a hearing memorandum for the Court.

Following oral argument, a decision is reached by the judges in conference, and the opinion is assigned to an individual judge for preparation. Of course, there occur on this Court like any other appellate court the usual shifts between majority and dissent after assignment and before final publication.

Cases involving mandatory jurisdiction — certificates from the judge advocates general, death cases and cases involving general and flag officers — are handled in the same way, except that the petition stage is omitted. As soon as the initial papers are received and the briefs filed, the case is set down for argument.

The Court is limited in the action it can take on a given case. Laying aside affirmance, several possibilities are present. It can reverse and order the charges dismissed, it can order a rehearing, or it can send the case back to the Board of Review for further action. Neither of the latter two courses of action can be followed if the Court finds insufficient evidence, as a matter of law, to support the conviction. In that situation, the charges must be dismissed, for the military procedure — unlike the civilian — does not permit a new trial in such a case. Generally, for prejudicial procedural error, the court will order a rehearing. If a valid finding of a lesser offense can be affirmed, or if the sentence is illegal, the court will return the case to the Board of Review for further action. However, ordering a rehearing does not mean that one must be held. The Code vests this decision in the discretion of the convening authority — if that official decides that a rehearing is impractical, he may order the changes dismissed.

Another branch of the Court's jurisdiction consists of petitions for new trial, based on newly discovered evidence or fraud on the court. Such petitions must be considered by the Court if the case is otherwise in its hands for review, and it may be called upon to consider additional evidence to decide whether there is sound reason to order a rehearing.

One of the most important functions assigned to the Court is that of joining with The Judge Advocates General of the Armed Forces in making an annual report on the operation of the Code to Congress, to the Secretary of Defense, and to the Secretaries of the Service Departments. The report is required to include statistics concerning pending cases and such recommendations as the judges and Judge Advocates General deem appropriate.

To date, one supplemental report containing statistics on the Court's operations and one formal report have been filed. The latter was divided into several sections — a joint report, followed by separate reports for the Court and each of the services. In the joint report, it was noted that insufficient facts were available, due to the short period of operation of the Code and the Court, to enable the presentation of positive recommendations concerning the many points of controversy. Among those mentioned — but passed —were an appellate procedure for handling the increased work load that would result from war or national emergency; creation of a separate Judge Advocate General's corps for the Navy and Air Force; creation of noncommand channels for processing fitness, efficiency or effectiveness reports; convening of courts by others than commanding officers; further limitations on command control; return to the prior law member procedure; and expanded factual and sentence review jurisdiction for the Court. The joint report did make two positive recommendations: (1) that special courts-martial be prohibited from adjudging bad-conduct discharges;

and (2) that the report be made due at the close of the calendar year, rather than as of May 31st of each year. The separate service reports as well as that for the Court contained detailed statistics and general information concerning operations. The Navy noted its opposition to the recommendation concerning sentence powers of special courts-martial.

It is to be anticipated that the next annual report — to be filed on May 31, or December 31, 1953, depending on whether Congress adopts the filing recommendation — will contain many more extensive and controversial recommendations. The Court has already commenced laying the groundwork for the next report by creating a civilian committee to investigate and study Code operations and return appropriate recommendations. It is thought that this committee will be especially helpful in obtaining the benefit of the knowledge, thought and experience of the civilian bar.

STATISTICAL REVIEW OF OPERATIONS

A consideration of the work of the Court at this date requires some statistical information in the interest of thoroughness and for what it may contribute to a comprehension of the scope of its labors in the sphere of military law administration, as well as an understanding of the physical burden it carries.

The first case to reach the Court was *United States v. McSorley* (1), 1 CMR 84 (USCMA 1952), which was docketed July 8, 1951, some five weeks after the effective date of the Uniform Code of Military Justice, May 31, 1951. September 7, 1951, marks the date of the first arguments heard by the Court, and *United States v. McCrary* (4), 1 CMR 1 (USCMA 1952), enjoys the distinction of being the first case argued. The *McCrary* case was also the first to be decided; the decision therein was handed down November 8, 1951. Undoubtedly the *McCrary* case caused some immediate apprehension in those following the course of the Court, for, rather than being a unanimous decision, it provoked separate expressions from each of the three judges. Judge Latimer announced the judgment of the Court and an opinion of his own; Judge Brosman concurred in part with Judge Latimer and in part with Chief Judge Quinn, who dissented. The succeeding months have demonstrated, however, that *McCrary* was not a portent of things to come, for the degree of unanimity, generally speaking, has been high.

From the date the *McSorley* case was filed, July 8, 1951, through and including November 1, 1952, 1730 cases were received by the Clerk's office. Of these, 1633 were received solely by petition of the accused, 87 by certificate of a Judge Advocate General, and 10 were cases in which the death penalty had been imposed. Although the figure fluctuates a bit, the Court is currently granting review in about 15 per cent of the

petition cases. On November 1, 1952, final action had been completed in 1298 of the 1730 cases filed. As all would expect because of its predominance in number of men, the Army has been the source of many more cases than any other Service. The Navy, the Air Force and the Coast Guard follow in that order. Geographically, the overseas commands, particularly Korea, have produced far more cases than units located in the continental United States.

Although no precise figures are available, it is roughly estimated that only about 10 per cent of the cases decided by the Boards of Review are brought to the Court. Why the figure is so low can only be the subject of speculation. In some of the cases, the sentence has been remitted or served and there is no desire for further review. Undoubtedly, a great number are of the "open and shut" variety in which it is obvious to anyone that a petition would be futile. In others, where accused has been sentenced to a punitive discharge, he may not want to have execution of the discharge delayed, preferring to get out of service as soon as possible no matter what the conditions. Finally, some accused may have received misguided advice, or may not know or understand the Court's functions and powers. It is quite likely that as more and accurate information about the Court filters through the services greater numbers of accused may seek review, increasing the Court's burden over what it is now.

The heavy filing of cases has produced a commensurately large number of opinions. By November 1, 1952, the judges of the Court had delivered written opinions in 161 cases, with only seven cases pending decision from the first term's work. Of these, 152 concerned enlisted men, seven involved commissioned officers and two were cases of civilians subject to the Code. Obviously, the per-judge work-load has been very heavy. Without going into a comparative statistical examination of the labors of other appellate courts here, it is a fact that the Court's burden is at least one of the heaviest of the appellate courts in the country. Although figures sometimes are deceiving mirrors of fact, we may say from personal experience that these figures present an accurate picture — the Court is a very busy organization.

Of the 161 cases decided, the result in 71 was distinctively to the advantage of the accused, ranging from outright dismissal of the charges to remand to a Board of Review to correct an error in sentence. In a number of others, error was found but not regarded as presenting a fair risk of "material prejudice to the substantial rights" of the accused.

Accused persons have the right, at their own expense, to have their cases presented to the Court by civilian counsel. Relatively few have taken advantage of the right, probably because of the expense element involved. Civilian counsel who have appeared have not — for the most

part — evidenced any undue strangeness in their venture into military law. And, in truth, there is little reason why they should, for the Code and Manual have brought to the military procedures and concepts entirely similar in most essential respects to those well-known on the civilian scene. One short-coming evidenced by privately-retained counsel is lack of familiarity with the Court's opinions. It is expected that this difficulty will be alleviated shortly, for the Lawyer's Co-operative Publishing Company of Rochester, New York, has undertaken to publish the Court's opinions in the customary form.

By November 1, 1952, 244 civilian lawyers had been admitted to practice before the Court. One might suppose that most of those retained would be from Washington, and percentage-wise that is so. However, already lawyers from points scattered around the country have appeared, so that the Washington bar certainly has no monoply in the field. Accused and their families everywhere would naturally tend to turn first to an attorney in their own community, so no one practicing law should be surprised to have a court-martial case come to his office.

Service officers assigned by the several Judge Advocates General to represent accused before the Court have done well. Their labors, taken together with those of the Judges, Commissioners and Legal Assistants of the Court, assure a most thorough and extensive consideration of every case. The staffs of the Judge Advocates General are not large, and their burden is heavy, for they must provide representation not only for the accused but also for the Government, and not only before this Court but also before the Boards of Review. The latter, of course, consider many more cases than reach this Court, their mandatory jurisdiction being much broader.

Since comparatively few cases that have come to the Court resulted in an outright dismissal of charges, most reversals have contemplated further action. Often the action remaining to be taken is purely corrective. Thus, a Board of Review may be required to reduce a sentence to comply with the maximum applicable to the offense in question, or it may be directed to find accused guilty of an offense that is lesser included within that of which he had been charged and convicted. In a number, however, rehearings have been ordered. Although as noted previously, the final decision to hold a rehearing rests with the convening authority who has the option of dismissing the charges, rehearings actually are held in a substantial number of cases in which they have been ordered. They pose problems of the same nature encountered in re-trials of civilian criminal prosecutions, though often to a much more formidable degree. Because of the mobility of military units, and, to an even greater extent, of individual personnel, by the time a case has run the gamut of appellate review to and through

this Court, the witnesses have often scattered so widely that it would be immensely difficult, if not impossible, to reassemble them for another trial. And because an accused has usually been returned to the United States after a conviction overseas, to secure the presence of foreign civilian witnesses at retrial of such a case, they would either have to be brought here or the trial brought to them. Furthermore, where an offense was committed in a combat area, the accentuated hazards to witnesses, both military and civilian, cannot be discounted. For these reasons, many rehearings are heard "on the record" of the first trial, bound by the usual rules governing use of testimony at a former trial. Such "warmed over" testimony, as all familiar with the judicial process know, can never be as satisfactory as that received from the lips of a witness present in court. How such proceedings succeed in practice we are not in a position to say. But they should not be too severely criticized, for they are probably the best solution to an awkward and difficult situation.

THE COURT'S DECISIONS

To date, the Court has passed on a wide variety of legal issues arising in the field of military criminal law. An analysis of its major opinions is presented elsewhere in this symposium, but a brief consideration of the general content of its work is within the scope of this article.

Recognizing the difficulty and danger of generalizing, the opinions of the Court may be roughly said to fall within three major categories: problems of procedure, issues concerning rules of evidence and factual controversies. So far as the area of procedure is concerned, most of the cases involved either transitional problems created by the change in law or the Code provisions which made radical changes in the pre-existing procedure. The latter have been particularly troublesome. A disproportionately large percentage of the Court's cases have involved the duties and responsibilities of the law officer — now, for the first time, divorced from participation in the deliberations of the court, and charged, in most essential respects, with the duties of a civilian judge. The requirement that the law officer instruct the trial court-martial on the "elements of the offenses charged" has been the subject of a great many opinions. This will, without doubt, continue to provide a plentiful source of error for defense counsel until such time as all court-martial personnel become thoroughly indoctrinated in the new procedure. Ultimately, when the present opinions relating to the technicalities of giving instruction have served their purpose, the only issues relating to instructions will probably turn on the correctness of the law officer's statement of the law.

Another procedural problem — which also relates to rules of evidence — is the matter of proof of prior convictions. Where two or more

previous convictions of an accused during his current enlistment and within three years of the date of commission of the offense in question are proved, those prior convictions have a direct bearing on the maximum sentence imposable. If the maximum for the offense of which he is convicted does not include a punitive discharge and does not include confinement for three months, the court may, because of the two or more previous convictions, adjudge a bad-conduct discharge and confinement for three months. Almost all of the numerous cases involving prior convictions have turned on the manner of proof. Trial counsel seemed to have the impression that the ordinary standards of proof did not apply to previous convictions. In its opinions, however, the Court has repeated again and again that there are no distinctions available. This is one current problem that will very likely disappear completely as the procedure becomes one of settled practice.

In several cases the Court has stricken down convictions where the record of trial disclosed that the law officer had conferred with the court out of the presence and hearing of accused and his counsel. This point of error, like the matter of instructions, stems from the Code's imposing on the law officer the unfamiliar robes of a civilian judge, and may be expected to fade as the new procedure loses its novelty.

The cases involving rules of evidence have presented some of the Court's most serious challenges. It is obviously impossible to set forth, in one volume the size of the Manual for Courts-Martial, all the detailed rules of evidence that may arise in criminal courts. The outline of evidence law contained therein presents little more than a guide to those involved in trying cases, and certainly does not settle many of the issues that arise and ultimately reach the Court. So also, the non-legally trained officers participating in special courts-martial cannot be expected to grasp the complexities of the rules of evidence. It is this area that brings to the Court some of its most difficult tasks — and, incidentally, provides some of the most satisfying results. Where the Code and the Manual are silent — or inconclusive — on a given point, the Court is free to apply that rule which seems best. Guided by the rules applied in civilian jurisdictions, particularly in the federal courts, it can pick and choose to find the one best suited for court-martial procedure. In so doing, of course, it must ever bear in mind the differences existing between the civilian and military communities, and the peculiarities incident to court-martial trials. It is, however, a refreshing challenge to be relatively free of the dictates of precedent in deciding both upon the rules of evidence to be applied and the limitations to be placed on those rules.

Finally, many cases before the Court have turned in whole or in part on sufficiency of the evidence to support the conviction. The Court has adopted in this area a rather strict test, which has evoked some

vigorous dissents. In evaluating the net effect of the evidence in the record, the Court often is presented with the disturbing situation of an evidentiary failure which it is clear, either from its very nature or the "allied papers" in the record, could have been completely taken care of at the trial level. Both trial and defense counsel frequently fail to present all the evidence apparently available to them, and a measurable share of the Court's burden would be alleviated if counsel would take it upon themselves to present the most complete case possible. In a long range view of military decisional law, the Court's pronouncements on sufficiency of evidence, once the applicable standard for review was formulated, are of marginal value only. It is, however, important in the sphere of military justice that all realize that the Court can and will review sufficiency of the evidence, for its hovering presence in that aspect of every case will serve as a significant check on arbitrary judgement based on flimsy evidence. And certainly, so long as the Court has the power to reappraise the total evidentiary picture in cases coming before it, a considerable portion of its efforts will be devoted to doing so.

The remaining opinions of the Court, not susceptible of categorization, have involved various matters, some very minor from the point of view of establishing a substantive body of law, and others undoubtedly of great importance, such as the extent of the serviceman's guaranty against double-jeopardy and the amenability of civilians abroad to trial by court-martial.

THE COURT'S FUTURE

It is much too early to make any definite prophecy as to the role the Court will play in the years ahead. Much depends on the extent to which the services become accustomed — or resigned — to effectuating the modernized policy of the Uniform Code of Military Justice. In evaluating the Court's future operations, however, it should always be remembered that it is a court of law — intended by Congress to act in a dual capacity. First, it has the task of building a single, unified framework of the principles of military criminal law, a framework within which the court-martial system can function efficiently. Second, it must ensure that justice is done in each case that comes before it.

The extent to which it can carry out its first responsibility will of necessity depend to a great degree on the assistance received from the services. The Boards of Review can help by writing opinions directed to broad principles of law, The Judge Advocates General by using care in selecting the issues to be certified to the Court, and appellate counsel by developing more fully in their briefs and arguments basic concepts of policy and principle, stressing not only the rules but the reasons behind the rules. It is to be hoped that the services will, in

the future, become more accustomed to the concept of appellate review as it is known in the civilian judicial system. This process will undoubtedly be hastened as traditional military concepts of court-martial review fade into oblivion. In the future, there should be a lessening of the disagreement — prevalent in some military circles — with the view that the Court should ever be deeply concerned with establishing sound and enduring principles of law without regard to the effect that such principles may have on the individual case before the Court. The military has long tended to emphasize the importance of the individual case, failing to recognize that, if appellate agencies establish a sound framework of law and trial authorities endeavor to work within that framework, disposition of individual cases become much simpler.

It is also vitally important that decisional law be disseminated past reviewing authorities. Those men directly concerned with the trial of cases must use the decisions of the appellate tribunals as working tools. Too long has the military trial system been one of virtually naked ritual. Unless trial lawyers and law officers in the field have available the appellate opinions and make a consistent effort to understand both the principles enunciated and the reasons behind them, the work of the Court of Military Appeals will not attain its maximum possible effectiveness.