Military Law

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To cite this article: Captain G. Frederic Blake (1867) Military Law, Royal United Services Institution. Journal, 11:46, 506-518, DOI: [10.1080/03071846709417315](https://doi.org/10.1080/03071846709417315)

To link to this article: <http://dx.doi.org/10.1080/03071846709417315>

Published online: 11 Sep 2009.

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LECTURE.

Friday, May 17th, 1867.

MAJOR-GENERAL SIR FREDERICK ABBOTT, Kt., C.B., Member of
the Council of Education, in the Chair.

MILITARY LAW.

By Captain G. FREDERIC BLAKE, Royal Marines, and Student of the
Middle Temple.

By the kind permission of the Council of this Institution I am allowed to address you on the subject of military law. It is a subject to which of late I have had to pay close attention, and for which I have had special opportunities. I have ventured to hope that, from such incidental advantages, I might be able to collect and bring before you some observations relevant to military law which might not be altogether uninteresting to those who honour me to-day with their presence and attention. The more I have considered the subject, the more I have seen its importance and extent, and consequently the more I have felt my own incapacity to do it justice. I do not attempt, therefore, to offer you anything in the shape of a regular essay on military law; much less do I presume to advance crude opinions of my own as to its merits or demerits. I will strive to get through my task with as few legal and military technicalities as possible, and not weary you with the abstruse, recondite learning of others, or tiresome avowals of, and apologies for, my own inability and inexperience. What I have to ask you to listen to is, first, a faint outline of some of the usages and penalties of a martial kind in former days among the two great nations of antiquity from whom our laws as well as our literature take their richest source; then briefly to glance at those particulars as they appear in the earlier days of English history, and afterwards to come down to our own times, casting a side glance at military legislation as now existing among our continental neighbours and our transatlantic cousins.

Before touching on our military law, I would just glance at the practices and rules laid down in former times by other great nations

for maintaining discipline among their forces. It would be very interesting to follow the course of law as applied to soldiers distinct from that as applied to citizens through all countries and peoples from the earliest times, but of course that cannot be done on this occasion. I will merely ask you to turn with me to the two great nations of antiquity, the Greeks and the Romans, who each in their turn swayed the sceptre of power in the civilized world.

Greeks.—During the first ages of Greece, the unsettled state of society led to a general acquiring of the art of arms for the purpose of predatory inroad or self-defence. Perhaps the earliest notices of the Greek armies are in the Homeric poems. In the heroic ages, authority and obedience were regulated more by the nature of the circumstances, by the relative personal distinction of the chieftain, than by any set law of military discipline. With the Spartans, every free man became a soldier. When all of a family were not wanted for an expedition, those who were, seemed to have been chosen by lot. After the heroic age, a great impulse was given to military art by the conquests of the Thes-salians and Dorians; the latter, in particular, reduced it to a system. The code of Lycurgus was a complete military one, and the discipline was of the strictest kind. The Athenians were less exact than the Spartans. They had ten officers called Strategi, one of whom went with an army, and presided at a species of court-martial, which consisted of members who had served with the offender. The military law of Athens prescribed the punishment of death for the crime of desertion while on service, though occasionally a fine or imprisonment was inflicted instead. An Athenian soldier considering himself unjustly treated, at the end of the campaign could compel his Officer to answer for his conduct before a tribunal of his countrymen. Agamemnon, in the Iliad, threatens with death those who may desert. Alexander the Great executed without a trial, thirteen Macedonians who had mutinied. Among the Lacedæmonians, cowards or deserters were either put to death or publicly disgraced. Military offenders, when at home, were made to wear a party-coloured dress, and were compelled to submit to any insult the meanest citizen chose to offer. Disgrace fell upon a soldier if he lost his shield in action.

Romans.—In the early ages of the kingdom and the commonwealth, every citizen became a soldier, and was at all times liable to serve. There were frequent calls for service. Protracted service became inevitable during the Carthaginian invasion, and when the dominion of Rome extended over Greece and Asia; but to the end of the Republic, the principle was recognised, that when a campaign was concluded, the soldier might return home and resume the occupations of a peaceful citizen. The practice introduced on a large scale of granting donations of land as pensions for long service, led to the creation of a numerous class disposed to devote themselves permanently to a military life. Augustus, with the advice of Mæcenas, established a powerful standing army, each soldier of which took an oath to obey orders. The Romans punished military offences with extreme severity, soldiers guilty of the gravest offences being beheaded or crucified. Under the Pagan Emperors, some were burnt alive, or exposed to wild beasts. On the

occasion of a mutiny, every tenth man, chosen by lot, was punished. Deserters, after being scourged, were frequently sold for slaves. Occasionally the offender was made to bare his right arm, and was bled nearly to death. Centurions sat as judges of various military offences, and had the power of inflicting corporal punishment, whence their badge of office was a vine sapling (Smith's *Antiquities*).

Coming to our own country, allow me to read a short extract from Hallam's *Middle Ages* bearing on my subject:—

"In public national history I am aware of no instance of what may be called a regular army more ancient than the body guards, or huscarles, of Canute the Great. These select troops amounted to 6,000 men, on whom he probably relied to assure the subjection of England. A code of Martial Law compiled for their regulation is extant in substance; and they are reputed to have displayed a military spirit of mutual union, of which their master stood in awe.

"NOTE.—*Singular Story*.—Canute having killed one of their body in a fit of anger, it was debated whether the King should incur the legal penalty of death, and this was only compromised by his kneeling on a cushion before the assembly, and awaiting their permission to rise."

It appears that among the Anglo-Saxons every freeman bore arms, and was trained to their use. I have not been able to discover any laws bearing upon their condition as soldiers, apart from that of citizens. At the Conquest the feudal system, which was altogether a military one, was fully established. It gave the Sovereign most despotic power over his vassals, and he had power to compel their military attendance and service, under the penalty for disobedience of a forfeiture of their lands. Even after the passing of Magna Charta, we find that every possessor of a knight's fief (and there were some 60,000 of them) had to furnish a soldier to attend the King in his wars for 40 days in every year, and to pay their expenses. Though the feudal system was not abolished till the Restoration, we find that paid bodies of troops were raised for special services. The early Kings employed them in their invasions of Scotland and in their French wars. Grose's book of *Military Antiquities* contains a collection of ordinances relating to the discipline of the English forces. I will not weary you by reading many of them, but merely quote a very curious one, showing the severity of the punishment resorted to in early days:—

— Charter of Richard 1st, 1189 (Rymer). "Richard by the grace of God King of England, Duke of Normandy, &c. To all his men going by sea to Jerusalem, greeting,—Know ye that by the common council of all good men, we have made the underwritten ordonnance:—He who kills a man on shipboard shall be bound to the dead man, and thrown into the sea; if the man is killed on shore, the slayer shall be bound to the dead body, and buried with it. Any one convicted by lawful witness of having drawn his knife to strike another, or shall have drawn blood of him, to lose his hand. If he shall have only struck with the palm of the hand, without drawing blood, he shall be thrice ducked in the sea. Anyone who shall reproach a man, or curse his companion, shall, for every time he is convicted

"thereof, give him so many ounces of silver. Any one convicted of theft shall be shorn like a champion;* boiling pitch shall be poured on his head, and down or feathers shaken over it, that he may be known; and he shall be set on shore at the first land at which the ship touches.

"Witness myself at Chinon."

From Grose, too, we gather that in the early period of our history the administration of military justice was chiefly directed by two important officials, the High Constable and the Marshal. They presided at tribunals formed of both civilians and officers, and not only tried and punished military offences, but also settled all kinds of suits between the followers of an army. In these early days we find military delinquents sometimes tried before Parliament. Henry de Essex, standard bearer to Henry II., was, for cowardice, deprived of his lands, and shorn and shut up for life as a monk, in the Abbey of Reading. In the first Parliament of Richard II., William de Weston and the Lord of Gomery were tried for delivering up the Castle of Arden, and sentenced, the former to be drawn and hanged, the latter to be beheaded.

The martial law for the time being, was declared in the Rules and Ordonnances of War, which were either made by the King, with the advice of his peers, for the expedition then on foot, as was that of Richard I., which I have read to you, and that of Henry V., or enacted by the Commander-in-Chief, who had authority given him by Commission from the King. Shakspeare puts expressions into Henry V's mouth, which show how strict was the discipline in his army. Fluellin has told the King that one Bardolph is like to be hanged for robbing a church. The King replies, "We would have all such offenders so cut off; and we give express charge in our marches through the country, there be nothing compelled from the villages, nothing taken but paid for; none of the French upbraided, or abused in disdainful language, for when lenity and cruelty play for a kingdom, the gentler gamester is the soonest winner." Rymer mentions many commissions for executing military law even so recently as the time of James I. That King appointed Sir H. Vere, Captain General of the Army intended to be sent to the Palatinate, and in his Commission he is authorized to make and proclaim ordonnances of war for the government of the Army, and to enforce the execution thereof, and to hear, determine, and punish by himself or deputies, all criminal causes, mutinies, and desertions, and all other crimes whatsoever, and to punish by death, loss of member, or other corporal infliction, according to their crimes, and the laws and customs of war; and also to hear and determine in like manner all civil causes, contracts, &c., arising in the said army. Also in like manner to judge all persons that may in future join the Army. A similar commission was granted by Charles I. to the Earl of Arundel, to be Captain-General of the Army employed at home, in which he was authorised to appoint a Provost-Marshal to execute the martial law. In the reign of Henry VIII., the office of

* Champions, hired to fight legal duels in cases of murder or homicide, had their hair shorn.

High Constable ceased, and the High Marshal afterwards executed his military judicial functions. In the ordonnance of this reign we find—"Item,—the High Marshal must hold two Court days in the week, "that is to wit, on Monday and Thursday, for them that have any "matters in Court, with his officers with him, as it is ordained by the "Chief Captain." Gradually the powers executed under the commission granted to the Commanders-in-Chief, lessened the independence of the Marshal's Court, and soon we have courts or councils of war, which sat at stated times, or as ordered by the Commander-in-Chief, and at which officers of a certain rank (apparently not under that of a Colonel) were entitled to sit as assessors or members; and instead of a Marshal, we hear of an officer styled President of the High Court of War, who on certain occasions claimed the privilege of a double vote. Sir Francis Vere, in his description of the duties of the several officers of a regiment, mentions it as the duty of all colonels once every week to call together all his captains, and to inquire into all offences in his regiment; to examine the nature and quality of such offences; to prepare the causes for a more speedy hearing, and to repair to the court-martial as often as they shall be warned. The following extract is taken from a work entitled, "*A Brief Treatise of Warr, &c.*, by W. T., in the year "of our redemption, 1649." (MS. No. 6,008, Harl.)

"The next in order I conceive to be the President of the High Court of War, whose place requireth him to be a person of honour "and integritie, of sound judgment, of ripe knowledge in civil and "military laws, before whom all matters civil and criminal that have "relation to the Army are to be tryed, therefore he ought to be "assisted with a learned fiscal or judge advocate, as also with a well- "experienced auditor, to audit and keep a register of all cases and "matters that shall be brought before the Court of War. His office "is to assemble the Court of War as often as the General shall please "for to appoint him; and in the interim he is to prepare all business "and causes, so that the Court of War may have a clear and just "information of all things; and when that any business shall come into "a final sentence, he shall have the privilege of a double voice, because "he represents the General's person."

Towards the latter end of the reign of King James I, and in the beginning of that of Charles I, a kind of mixed court seems to have been occasionally adopted, composed of both civil and military members. Such as when an army was quartered at Portsmouth, Plymouth or Dover, or other sea-ports, waiting to be embarked for foreign service; in which case a Commission was sent down appointing Commissioners to try all offences committed by the soldiers or followers of the Army within certain counties or districts. Many of the Commissioners were military men, but with them were joined the Earl Marshal, Lord Lieutenant of the county, and the mayors, or chief magistrates of the principal towns of that district and its environs. Rymer mentions several instances about the years 1626 to 1640. In the laws and ordonnances of war, published A.D. 1640, by the Earl of Northumberland for the King's Forces, and those of the Earl of Essex for the Parliamentary forces in 1643, all controversies between soldiers and their captains and others, were

directed to be summarily heard and determined by the Council of War, except the weightiness of the cause required public deliberation. No other court is mentioned.

The Rules and Articles of War in the reign of James II, approach those which are now in force, some of them forming the basis of our present laws. The following directions with regard to military discipline were issued for the use of His Majesty's Forces in 1686:—

Of Councils of War, or Courts-Martial.

“ In an Army the Council of War had always to meet at the General's quarters or tent, and none were to be called to it but Lieutenant-Generals, Major-Generals, and Brigadiers. The attendance of Colonels and Commanders was only allowed when the matters concerned their regiments. Private Councils of War or Courts Martial in a garrison were held at the Governor's house; when in a camp, at the Colonel's tent, and he notified to the Captains to be present. The Governor or Colonel, or whoever was to be President, took his place at the head of the table, and the Captains were ranged in order according to seniority. The town Mayor or the Quarter-master of the regiment, who, in the absence of the Judge Advocate, discharged his office, sat at the lower end of the table. First Lieutenants and Ensigns had a right to be in the room, but had to stand at the Captains' backs with their hats off, and had no vote. The Council having been called to deliberate on some matter of importance, the President opened it to the Court, when the opinions of the members were taken in writing,—those of the youngest officers first. The result was decided according to plurality of votes. If the Council of War were held to judge a criminal, the President and Captains having taken their places, the prisoner having been brought before them, and the information read, the President interrogated the prisoner about all the facts whereof he was accused. After the Court had heard his defence, and the proofs made or alleged against him, he was ordered to withdraw, and was remitted to the care of the marshal or jailor. The sentence was decided by the plurality of votes; after which the criminal was brought in and the decision announced in the name of the Council of War, or Court Martial. When the criminal was condemned to any punishment, the Provost-Marshal caused the sentence to be put in execution, and if the punishment were to be public, the regiment was drawn together to see it, that the other soldiers might thereby be deterred from offending. Before a soldier was punished for any infamous crime, he was publicly degraded from his arms, and his coat stripped over his ears. A Council of War or Court Martial was to consist of seven members at least, and, if there were not Captains enough, inferior officers might be called in.

“ By 2nd and 3rd Edward VI, c. 2, it was enacted that martial law might be declared by every field officer in every field under his charge once a month, and by every Governor or Captain of a garrison or fortress once every quarter, within his charge. The 5th Philip and

"Mary, c. 3, established trial by jury for military offenders, unless the offence was committed during actual service, in which case the Lord Lieutenant or Lord Warden, or any other chieftain might determine the punishment, according to his own discretion. The judicature of the Constable's Court gradually underwent a change. Its power was exercised through the medium of Parliament, and sometimes, even, by the civil magistrates."

I now wish to call your attention to some of the peculiar punishments in vogue in those days. Few of the ordonnances of war mention the punishment of death by beheading or hanging. In cases where a large body of troops had been guilty of one common crime, and decimation was resorted to, billets were put into a helmet, every tenth one being marked "D," and those who drew the marked billets suffered the punishment of death. Occasionally the sufferers were chosen by means of casting dice on the drum-head. When an officer had been guilty of blasphemy, his tongue was bored with a red-hot iron. This practice remained in force till the time of Queen Anne. Another punishment sometimes inflicted, was that of riding the wooden horse. This machine consisted of planks nailed together so as to form a sharp ridge or angle, about 8 feet 9 inches in length. It was supported by four posts, about 6 feet 7 inches in height, and was placed on a moveable stand. The punishment of picketing was carried out thus:—A big post was driven into the ground, and the delinquent was ordered to mount a stool near it. His right hand was then fastened to a ring in the post by a noose round his wrist, and drawn up as high as he could stretch. A stump, the height of the stool, with its end cut to a round and blunt point, was then driven into the ground near the post, and the stool being taken away, the sufferer had nothing but this stump to rest on. This severe torture was sometimes continued for upwards of a quarter of an hour. The punishment of flogging was inflicted with switches, and not as in the present day. We have an account of the following punishment being inflicted on an officer after the battle of Falkirk, in the rebellion of 1745. The line were drawn out under arms, the prisoner was brought to the head of the oldest brigade, his sentence was read, his commission was cancelled, his sword was broken over his head, his sash was cut in pieces and thrown into his face; and, lastly, the Provost-Marshal's servant gave him a kick and turned him out of the line. When a private soldier was dismissed, he was drummed out with a halter about his neck.

Still another punishment was that of the whirligig, a kind of wooden cage turning on a pivot, into which the delinquent was placed, and then whirled round with amazing velocity.

The immediate cause of the passing of the first Mutiny Act was as follows:—

The Scottish regiment of Dumbarton when ordered to Holland to replace a Dutch regiment which William desired to keep in England, mutinied at Ipswich, and declared their adherence to the abdicated prince. The King communicated with his Parliament and marched three Dutch regiments against the disaffected troops. The Parliament,

in order to repress the mutinous spirit of the Army, passed a Mutiny Act, a warrant of unquestioned legality for the punishment of all military feuds. The first regular Mutiny Act was passed the 3rd of April, 1689, and was intended to be in force six months, but excepting during three years of the reign of William it has been annually renewed ever since. It will thus be seen that Military Law executed by the Sovereign is authorized by Parliamentary legislation, and rests upon a basis of undisputed legality. Whitelocke, speaking of the first Mutiny Act quaintly says, "though the King would have the power of the sword, the Parliament would have that of the purse; so that they must both agree to draw the sword, or else leave it in the scabbard, which is the best place for it." Hallam in his *Constitutional History of England*, says, "These are the two effectual securities against military power; that no pay can be issued to the troops without the previous authorization by the Commons in a Committee of Supply, and by both Houses in an Act of Appropriation; and that no officer or soldier can be punished for disobedience, nor any Court-Martial held without the annual re-enactment of the Mutiny Bill."

I will now turn to our Military Law as it is at present constituted. The definition of Municipal Law is equally applicable to Military Law, it is "a rule of conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong." As also the common law is composed of two elements, the written and unwritten law, so the law military has its written element in the Mutiny Act and Articles of War, and its unwritten part in the usages and customs of the service.

Tytler in his *Essay on Military Law*, says, "The modern British soldier enjoying in common with his fellow-subjects, every benefit of the laws of his country, is bound by the military code solely to the observance of the peculiar duties of his profession, a code which is simple in itself, reasonable in its enactments, easy in all its obligations, level to the meanest understanding, and more effectually promulgated and better known than any of the ordinary statutory laws of the realm."

I had the privilege of hearing the charge of the Lord Chief Justice Cockburn (the very highest authority in the common law), to the grand jury, in the case of the Queen v. Colonel Nelson and Lieutenant Brand. Unhappily it has not been published, but I made notes of it, and can vouch for the substance of his expression. He said that the Mutiny Act and the Articles of War are so elaborate and precise, that it is impossible for any one who looks into them with the view of ascertaining what his duty is, to fail in discovering it, or in finding out what the law is by which he is to be guided. There is nothing arbitrary in the military law, it is precise, specific, and defined.

We will now take the side glance I mentioned in my opening observations, at the various modern systems of military law in other countries, in France, Austria, Prussia, and the United States.

France.

Conseils de Guerre, are composed of seven judges, assisted by
 A Commissaire Imperial,
 A Rapporteur,
 A Greffier.

From the rank of private to that of captain, the composition of the court is :

- 1 Colonel—President.
- 1 Chef de Bataillon ou d'escadron.
- 2 Capitaines.
- 1 Lieutenant.
- 1 Sous-lieutenant.
- 1 Sous-officier.

The following is a brief sketch of the mode of procedure in a French Military Court. The complaint is drawn out by the captain, and the attendance of witnesses secured. This is sent to the *Chef de bataillon*, who forwards it to the Colonel, the Colonel sends it to the Lieutenant-General, the General to the Conseil de Guerre. When the court is held the Commissaire de l'Empereur attends to see that the proceedings are conducted according to law, and when required, to read the text of the law applicable to the case. The prisoner is interrogated by the rapporteur, who has to prepare all the proceedings and enlighten the council in the performance of their sacred duty. A member of the bar may be appointed to defend the prisoner, and the verdict is decided by a majority of at least five out of seven.

Punishments are very severe, but no flogging is allowed.

In *Austria* each regiment has its regimental Auditor, who must have passed an examination, and taken a degree of doctor of law. He ranks with and wears the uniform of a captain. His duty is to examine into all cases of prisoners sent for trial, to sift and prepare the evidence, and exclude all irrelevant matter. When the court assembles, he explains the nature of the case, the laws affecting it, and the particular points to be decided. He is expected to keep before the consideration of the court all the points which bear in favour of the prisoner. In fact, he has to transact all the business of a legal kind which may affect the regiment, and to keep historical records of these transactions. There are two kinds of courts martial, a full court for grave offences, and a lesser court. The former consists of two officers of each rank from princes to captains. The Field Officer presides, and the court has the power of life and death. In the latter court the members consist of one of each rank, from that of the man to be tried up to the captain who presides.

A *Prussian* court martial consists of a captain, who presides, two first lieutenants, two second lieutenants, two sergeants, two corporals, two acting corporals, and two privates. The witnesses are examined

by an officer called an examining officer. When the prisoner is a sergeant, the acting corporals and privates are not admitted, and when he is a sergeant major, corporals are also excluded.

In Prussia there are seventeen schools for military education, in which special attention is given to military legislation.

The United States.—The Articles of War and procedure of courts martial are very similar to our own in the United States. With their courts a Deputy-Judge Advocate is still the prosecutor. No flogging is allowed.

I will now venture to bring before you the outline of a scheme which, if carried out, I cannot but think would tend to the gradual removal of those defects which exist in our mode of procedure in courts martial, and would raise the whole tone of our military legislation. I have much distrust of myself as the medium of bringing my thoughts before you, but I have a conviction of the necessity for their application to the present state of things. The plan I would humbly venture to throw out as a suggestion, is that it would be in the interest of the Service, for the Government to announce their intention of forming a body of Officers possessing the necessary qualifications for the confident performance of the duties now required of the Deputy-Judge Advocate, and such other legal duties as the Service might require.

Candidates for this body should be officers of ten years' standing, or who have passed the Staff College. They should be examined in the Mutiny Act, the Articles of War, Procedure of Courts Martial, the usages and customs of the Service, and in the knowledge of military law, which they would acquire while doing duty with their regiments. A certain number should be selected and exempted from military duties for one year to attend classes connected with the Inns of Court on such subjects as Common Law, Constitutional History, and International Law. They should attend the Criminal Courts and study the rules of evidence, the formation of judgments, and the manner of conducting judicial investigations. At the end of a year these officers should undergo an examination, and, if found qualified, should be employed as Deputy-Judge Advocates, or, until they obtained such appointment, as Prosecutors at General Courts Martial. In course of time they might be required to assist at Garrison as well as General Courts Martial. No doubt the Council of Legal Education would meet the military authorities, and grant facilities for these students, such as not requiring them regularly to join the Inns of Court. They should have access to the records in the Judge Advocate's office.

In common with all readers of military history, I have profound respect and admiration for Sir C. Napier. Major Hughes, in his book on the duties of Judge Advocate, quotes Sir C. Napier, as giving this recommendation, "That no man should be appointed, either to officiate, or be permanently posted to the Judge Advocate-General's Department, till after a certain length of service as a Regimental Officer. That previously to his entering on his duties, a Judge Advocate should undergo a strict examination as to his knowledge of military and criminal law, and the practice of military courts."

Major Hughes, D. J. A., also writes:—"I do most decidedly assert "after some little experience in the department, and not without "giving the subject the deepest consideration, that the duties of Judge "Advocates in the present day require qualifications and attainments "which are not to be obtained without instruction and a regular course "of study, to which must be added, if proficiency is an object, assiduity and research."

I do not claim any exclusive originality in this idea. I suppose most military men who have thought much on the procedure of our Courts Martial, have seen that there is room for improvement in it, and they would rather look to members of their own profession for this improvement than seek it from the bar, while on the other hand most of the legal writers on our military law have suggested that lawyers should either preside or act as assessors to military courts, as the means of perfecting their procedure. I find that a military writer in the *Law Magazine* suggests a plan very similar to the above, though of course he does not write of my special scheme, of Officers keeping classes at the Inns of Court as a good means of qualifying themselves for their varied legal duties. The article is "On the real character of Courts Martial "and their proposed Reform." The author having argued strongly against courts martial being placed under civil control, in which I entirely agree with him, proceeds,—“Why not train a class of officers “to act, if not as chairmen of Courts Martial, at all events as assessors?”

“The exclusive appointment, moreover, of military men to these “responsible positions, would be a great incentive for officers generally “to acquire a thorough knowledge of military law, and of the proper “mode of conducting judicial examinations.”

I cannot but think, that if Officers of some standing were to give up their ordinary avocations for a year, and devote themselves to these studies, their doing so among regular law students, and under the instruction of the distinguished Readers of the Inns of Court, in fact, their breathing the legal atmosphere, would materially lessen their difficulties in acquiring that legal acumen which might be of important advantage to their Service. I have been long enough in the Service to know that, were such a scheme as I have suggested carried out, many, perhaps not ill-naturedly, would carp at men being taken from their regular duties for a time to qualify for good appointments; and they might say it was a good slope—a good way of getting a year in town. This sort of thing can be well refuted by looking at the prospectus of the classes, which the scheme suggests should be kept. The best part of every day in the week is occupied with the classes during the Term; and when the classes are not going on, attendance at the Criminal Courts, and the acquisition of the requisite knowledge, would abundantly occupy the time of these military law students. I take this opportunity, and I do so with much pleasure, of paying my humble, but hearty, tribute of praise and thanks to the legal profession, with whom I have now for some time been associated. Coming among them as I did a perfect stranger, having all my life followed such entirely different pursuits, I have found nothing but kindly courtesy

and willing help, not only from the students with whom I have necessarily been most associated, but from the Bar, the Readers, and even the Benchers and Masters of the Temple. Officers keeping these law classes and acquiring thereby a sort of legal acumen, would not imperil their efficiency as Officers and soldiers. On the contrary, the skill which they would acquire in investigating facts brought before them would be of use in strategic arrangements, and help to prompt decision in tactics before an enemy. Were this body of Officers formed, in course of time every garrison and colony would have at least one of them. I cannot but believe, that on occasions of difficulty or disturbance arising, it would be a great satisfaction to Governors of Colonies or Generals in command, to know that they had an Officer who had made law his especial study, and whose counsel might be relied on, and in any peculiar emergency, might be felt more desirable than that of the ordinary law advisers; not that I would suggest that these Officers should be wholly responsible Officers, but that from their having successfully carried out a course of legal study, they would be qualified to give to their chiefs a valuable opinion. Newspapers have of late frequently made severe criticisms on our Military Courts, and their mode of procedure. Those remarks have often been characterised by powerful writing, and by considerable ignorance of the subject they maligned. Still, in these days, when papers are so much read by the public, and so much in the hands of our soldiers in their recreation and reading rooms, it would be well to obviate these censures on our military legislation, and to endeavour to raise its tone by forming such a body of Officers as I have suggested. I said in my opening remarks that I would not presume to put forward my own opinions as to the merits or demerits of military law, nor will I. I will only say that the mere establishment of such a body of Officers would in itself lead to the introduction of such improvements or alterations as may be needed in our military law and its administration. I know many will say that the present system does well enough, and that at the Staff College there is a special class for military legislation. Every one must have the highest respect for the varied attainments of those Officers who have passed through the Staff College; but for the very reason that their studies are so varied, I maintain that sufficient special attention cannot be given during the course at the College to the qualifying of an Officer for the confident discharge of the manifold duties of a Judge Advocate. I lately met with a story of a traveller who came to a well, and noticed a maiden weeping beside it. On his inquiring what was the cause of her grief, she replied that she wept because she was thinking she might get married and have children, and one of them might fall into this well. Is there not too much of this anticipation of improbable evils? It may be dreaded, that if this scheme were carried out, the "law's delays," with legal quibbles and technicalities, would creep into our Courts Martial. Is it not better to see that the Service would gain Officers who had exercised judgment in disrobing facts of appearances which do not belong to them, and in dis severing them from others with which

they have no essential connection; and so, often might be prevented that most deplorable of all the consequences of human fallibility, viz., the condemnation and punishment of the innocent, and, next to it, the suffering the guilty to escape conviction. I have to thank the Council for permitting me to address you, and I hope they may extend their kindness by permitting some portions of what I have put forward to appear in our Journal, that perhaps its wide dissemination may bring these imperfect suggestions to the notice of those who, from their knowledge and position, may improve on them and promote their adoption.