

## Lore of the Corps

### From Infantryman to Contract Attorney to Judge Advocate General: The Career of Major General Ernest M. Brannon (1895–1982)

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The expertise required to be a first-rate procurement lawyer in the Corps, necessarily acquired through study and practice over a long period of time, probably best explains why judge advocates specializing in contracting historically have been less likely to reach the very top of the Corps. There have been exceptions, however, and Ernest M. Brannon, who served as The Judge Advocate General (TJAG) from 1950 to 1954, is perhaps the most noteworthy. His remarkable career—which began at West Point and ended in Washington, D.C.—included overseas service in China and the Philippines, as well as tours in Ohio, New York and Texas. As TJAG, he oversaw the doubling of the number of uniformed lawyers in the Corps, as well as the inauguration of the Uniform Code of Military Justice (UCMJ) and the reactivation of The Judge Advocate General’s School (TJAGSA) in Charlottesville, Virginia—all of which occurred while the Army was at war in Korea.

Born in Ocoee, Florida, on December 21, 1895, Ernest Marion “Mike” Brannon spent his childhood in Ocoee, where he went to grammar school. After attending Marion Institute, a college preparatory school located in Marion, Alabama, Brannon entered the University of Florida. He also worked at a local bank. After World War I began in Europe, and as “war tension” in the United States increased, young Brannon “became interested in the regular Army.” He obtained an “alternate appointment” to the U.S. Military Academy (USMA) and left Gainesville for West Point in June 1917.<sup>1</sup>

Since the United States had entered World War I in April 1917, Brannon and the Class of 1917 were graduated early—on 1 November 1918. Ten days later, the war ended in Europe and Second Lieutenant Brannon and his officer classmates returned to West Point as student officers and a second graduation six months later, in June 1919. The entire class then sailed for Europe, where they toured battlefields in France and Italy as guests of the French and Italian governments.

After returning to the United States, Brannon and his fellow Infantry officers made history as members of the first regular class at the newly established Infantry School at Fort Benning, Georgia.<sup>2</sup> After graduation in June 1920, Brannon

reported to the 3rd Infantry Regiment, then located at Eagle Pass, Texas. When his regiment moved to Camp Sherman, Ohio, now First Lieutenant (1LT) Brannon went with it.

In January 1921, 1LT Brannon returned to New York City to marry his girlfriend from his West Point days, Marjorie Devitt. He and Marjorie then returned to Ohio, only to be informed that they were to relocate to Tientsin, China, where Mike was to join the 15th Infantry Regiment. While aboard an Army transport ship taking them to China, however, Brannon was diverted to Camp Eldridge in Laguna Province in the Philippines, where he served as battalion and post adjutant.

In November 1922, now Captain (CPT) Brannon joined the 15th Regiment in Tientsin, where he served as assistant adjutant. As in any career, timing and luck are often important. Although Brannon did not know it at the time, the arrival of a new officer in the regiment, Lieutenant Colonel (LTC) George C. Marshall, was an important event. Marshall served as the unit’s executive officer and, in this position, had frequent contact with the regiment’s assistant adjutant. While there is no way to know if this future Army Chief of Staff and General of the Army had anything to say about CPT Brannon’s future, LTC Marshall was an excellent leader who took note of promising young officers—and Brannon certainly fit into this category.<sup>3</sup>

In May 1925, Brannon was ordered to return to the United States in order to attend Columbia Law School for a year—in preparation to be an instructor at the USMA Law Department. Brannon subsequently served on West Point’s faculty from 1926 to 1931, returning each summer to resume his studies at Columbia. It was a long process: after leaving West Point in 1931, Brannon completed his final year at Columbia and was awarded his LL.B. in 1932.

After being detailed to The Judge Advocate General’s Department in 1931, Brannon’s first assignment was in the

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created the following year. John M. Wright, Jr., *Fort Benning 1918–1968*, INFANTRY, Sept.–Oct 1968, at 4–11.

<sup>3</sup> General of the Army George C. Marshall was one of the most remarkable men of his generation. A graduate of the Virginia Military Institute, he served in the Army from 1901 to 1945. After retiring as Army Chief of Staff, Marshall served as Secretary of State under Harry S. Truman. His “Marshall Plan”—a massive economic aid package—is widely credited with bringing about the revival of Europe after the devastation of World War II. For more on Marshall, see ED CRAY, *GENERAL OF THE ARMY: GEORGE C. MARSHALL, SOLDIER AND STATESMAN* (1990).

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<sup>1</sup> Ernest Marion Brannon, ASSEMBLY 123 (Mar. 1984).

<sup>2</sup> Fort Benning was established following World War I, when the Army bought land in 1919 and created a military reservation named in honor of Confederate Brigadier General Henry L. Benning. The Infantry School was

Contracts Division in the Office of The Judge Advocate General (OTJAG). It was in this job that “he developed a life-long interest in the legal aspects of Army procurement.”<sup>4</sup> Then—Major Brannon applied to attend the Army Industrial College (today’s Industrial College of the Armed Forces), was accepted and, after graduating, was assigned to the Planning Branch, Office of the Assistant Secretary of the Army. In this position, MAJ Brannon assisted with planning for industrial mobilization in the event of war. He also was one of the War Department’s representatives during Senate Committee investigations of the munitions industry, the so-called Nye Committee.

In 1936, MAJ Brannon returned to New York as Assistant Judge Advocate of the 2d Corps Area, located on Governors Island. After gaining some experience with courts-martial (and golf), he returned with his family to Washington, D.C. He was assigned to the Contracts Division, OTJAG. He later became chief of that division and was soon recognized as an expert in government procurement. Such was his authority that he taught Government Contract Law at Georgetown Law School from 1941 to 1943. Now—LTC Brannon also was given the additional duty of Chief of the OTJAG Tax Division.

In 1943, then—Colonel (COL) Brannon sailed for England, where he was assigned as the Judge Advocate, First U.S. Army, then located in Bristol. For his outstanding service as the top lawyer in that unit’s headquarters between 20 October 1943 and 31 May 1944, Brannon was decorated with the Bronze Star Medal.<sup>5</sup>

On 11 June 1944, COL Brannon waded ashore at Omaha Beach with First Army as it entered combat in France. It was D+5 and Brannon would remain with the unit as it fought its way across France and Belgium and then into Germany. After Victory-in-Europe or “V-E” Day in May 1945, COL Brannon returned to the United States with First Army and began preparing to deploy to the Pacific, since the First was scheduled to join the fight against the Japanese.

The dropping of two atomic bombs on Japan ended the need for COL Brannon to deploy to the Pacific and he now returned to Washington, D.C., to become the “Procurement Judge Advocate” at Headquarters, Army Service Forces. This was an important position, which explains why the Office of the Procurement Judge Advocate was transferred to the War Department in 1946. The following year, however, the position was transferred again: to OTJAG. Brigadier General Brannon (he had been recently promoted) now became the Assistant Judge Advocate General (Procurement).

During his tenure as the AJAG (Procurement), Brannon was heavily involved in the drafting and passage of the Armed Services Procurement Act of 1947. During the war, the government had used the negotiation method of procurement and this legislation now required the government to return to the “formal advertising and competitive bidding that had been customary in time of peace.”<sup>6</sup>

On 26 January 1950, BG Brannon was confirmed by the Senate as TJAG.<sup>7</sup> Any hopes he may have had for a quiet tenure as the Army’s top lawyer were dashed almost immediately, as the United States was plunged into war on the Korean peninsula in June 1950. Major General (MG) Brannon now became a war-time TJAG and faced a number of significant challenges.

First, the Army, Navy, and newly created Air Force had only recently finished work on the Manual for Courts-Martial, 1949, and were beginning with its implementation. But this work was now completely preempted with the enactment of the Uniform Code of Military Justice. Since the new UCMJ would take effect on 31 May 1951, MG Brannon now had to oversee the production of yet another Manual for Courts-Martial—based on a criminal statute that was radically different from the Articles of War that had governed military justice in the Army since the Revolution.

Second, the outbreak of the Korean War had triggered the re-call of hundreds of Army Reserve judge advocates, most of whom had served in World War II. Brannon and others realized that these returning judge advocates knew nothing about the new UCMJ and that some sort of instruction on the new Code was necessary—as well as refresher training on other legal subjects. The result was that MG Brannon directed that The Judge Advocate General’s School be re-activated at Fort Myer, Virginia. Within months, MG Brannon decided that a more permanent location for TJAGSA be found. Consequently, it was Brannon who ultimately decided that the school should be located at the University of Virginia, and it was MG Brannon who selected the school’s first commandant, COL Charles E. “Ted” Decker and ensured that TJAGSA had the funding and support that it needed to flourish.

Finally, MG Brannon was TJAG when the Corps doubled in size. The demands of the Korean War and the additional legal responsibilities imposed by the UCMJ resulted in a large number of Reserve judge advocates being called to active duty. The Corps went from 650 judge advocates (350 Regulars, 300 Reservists) to over 1200 officers, of whom about two-thirds were Reserve officers.

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<sup>4</sup> Ernest Marion Brannon, *supra* note 1.

<sup>5</sup> Headquarters, First United States Army, Gen. Orders No. 22 (June 6, 1944).

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<sup>6</sup> E. M. Brannon, *The Armed Services Procurement Act of 1947*, JUD. ADV. J., BULL. NO. 1, Dec. 1948, at 12.

<sup>7</sup> JUDGE ADVOCATE GENERAL’S CORPS, U.S. ARMY, THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL’S CORPS, 1775–1975, at 200 (1975).

Major General Brannon reported in 1952 that 750 of these 1200 judge advocates “were engaged full-time in criminal justice activities.”<sup>8</sup> In any event, the personnel challenges that accompanied this huge increase in Army judge advocates required a senior officer with vision.

When MG Brannon retired on 26 January 1954, he left a Corps that was radically different from the one he had entered in the 1930s—and which had markedly changed during his four years as TJAG. When MG Brannon retired on 26 January 1954, he was immediately recalled to active duty to serve one year as executive secretary of President Eisenhower’s Commission on Veteran’s Benefits, the so-called Bradley Commission. While other TJAGs have been recalled to active duty, it is a rare event in the Corps’ history.<sup>9</sup> After retiring a second time, MG Brannon continued to serve for some years as a consultant to the Defense Department in the field of industrial security.<sup>10</sup>

Those who served with MG Brannon in the Corps remembered him as “a man of great patience who took time to understand and care for the people around him.”<sup>11</sup> As MG (Retired) Wilton B. Persons put it: “Some Judge Advocates were afraid of him [Brannon] because he was gruff and no nonsense . . . but he was very sharp, on the ball and much liked and admired in the Corps.”<sup>12</sup>

General Brannon’s ideas about service in the Army were passed on to his grandson, Patrick J. O’Hare, who was a judge advocate for more than 20 years. After retiring as a colonel in 2005, “Pat” O’Hare continues to serve our Corps as the Deputy Director of the Legal Center at TJAGLCS.

As for MG Brannon, he has not been forgotten: each year, the Contract and Fiscal Law Department at The Judge Advocate General’s Legal Center and School awards the “Major General Ernest M. Brannon Award” to the Graduate Course student with the highest standing in government procurement law.

*More historical information can be found at*  
The Judge Advocate General’s Corps  
Regimental History Website  
*Dedicated to the brave men and women who have served our Corps with honor, dedication, and distinction.*  
<https://www.jagcnet.army.mil/History>

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<sup>8</sup> *Id.* at 209.

<sup>9</sup> Other The Judge Advocate General’s recalled to active duty are: MG Blanton Winship, recalled to active duty to serve as a member of the military commission that tried the German U-boat saboteurs during World War II; MG Myron Cramer, recalled to serve as the lone American judge on the Tokyo War Crimes tribunal; and MG Kenneth Hodson, recalled to serve as the first Chief Judge on the Army Court of Military Review (today’s Army Court of Criminal Appeals).

<sup>10</sup> *Ernest Marion Brannon, supra* note 1, at 123.

<sup>11</sup> *Id.*

<sup>12</sup> Telephone Interview with Major General (Retired) Wilton B. Persons, Jr. (Feb. 8, 2013). Major General Persons served as TJAG from 1975 to 1979.