

Military Law Review

Volume 224

Issue 2

2016

CONTENTS

Articles

The SJA's Article 34 Veto: A Force Awakening?
Captain Gary E. Felicetti, USCG 289

A Permanent Framework for Condolence Payments in Armed Conflict:
A Vital Commander's Tool
Major Katharine M. E. Adams 314

The Crime of Aggression: Should Aggression be Prosecuted as a Crime
in the ICC?
Tal Ziskovich, Israel Defense Force 373

What Comprises a "Lascivious Exhibition of the Genitals or Pubic
Area"? The Answer, My Friend, is *Blouin* in the Wind
Major Daniel M. Goldberg 425

Ex Parte Merryman: Myth, History, and Scholarship
Seth Barrett Tillman 481

Proposing a New Strategy for Army Ethics Training
Major Jeniffer G. H. Cox 541

Book Review

The Law of Armed Conflict
Reviewed by Fred L. Borch III 590

Headquarters, Department of the Army, Washington, D.C.

Academic Journal No. 27-100-224-2, 2016

Military Law Review

Volume 224

Issue 2

Board of Editors

Colonel Randall Bagwell

Dean, The Judge Advocate General's School

Lieutenant Colonel May Nicholson

Chair, Administrative and Civil Law Department

Major Laura O'Donnell

Director, Professional Communications Program

Mr. Sean Lyons

Legal Editor

Captain Vanessa R. Asmus

Editor

Since its inception in 1958 at The Judge Advocate General's School, U.S. Army, in Charlottesville, Virginia, the *Military Law Review* has encouraged a full and frank discussion of legislative, administrative, and judicial principles through a scholarly examination of the law and emerging legal precepts. In support of that mission, the *Military Law Review* publishes scholarly articles that are relevant to, and materially advance, the practice of law within the military.

The *Military Law Review* does not promulgate official policy. An article's content is the sole responsibility of that article's author, and the opinions and conclusions that are reflected in an article are those of the author and do not necessarily reflect the views of the U.S. government, the Department of Defense, the Department of the Army, The Judge Advocate General's Corps, The Judge Advocate General's Legal Center and School, or any other governmental or non-governmental agency.

WEBSITE: The *Military Law Review* is available at <http://www.jagcnet.army.mil/MLR>.

COPYRIGHT: Unless noted in an article's title, all articles are works of the United States Government in which no copyright subsists. When copyright is indicated in the title, please contact the *Military Law Review* at MLREditor@jagc-smtp.army.mil for copyright clearance.

SUBSCRIPTIONS: Interested parties may purchase private subscriptions from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at (202) 512-1800. An annual subscription is \$20 for a domestic subscriber or \$28 for an international subscriber.

For Army legal offices, including within the Army National Guard and the U.S. Army Reserve, and other federal agencies, inquiries and address-change requests should be communicated to the *Military Law Review*. Other military services may request distribution through official publication channels. This periodical's postage is paid at Charlottesville, Virginia, and additional mailing offices.

Reprints of published works are not available.

POSTMASTER: Send address-change requests to *Military Law Review*, The Judge Advocate General's Legal Center and School, U.S. Army, 600 Massie Road, ATTN: ALCS-ADA-P, Charlottesville, Virginia 22903-1781.

CITATION: This issue of the *Military Law Review* may be cited as 224 MIL. L. REV. page number (2016).

SUBMISSION OF WORKS: The *Military Law Review* accepts submissions of works from military and civilian authors. Any work that is submitted for publication will be evaluated by the *Military Law Review*'s Board of Editors. In determining whether to publish a work, the Board considers the work in light of the *Military Law Review*'s mission and evaluates the work's argument, research, and style.

No minimum or maximum length requirement exists. Footnotes should be numbered consecutively from the beginning to the end of the writing, not section by section. Citations must conform to *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and to the *Military Citation Guide* (TJAGLCS 21st ed. 2016).

A submitted work should include biographical data concerning the author or authors. This information should consist of branch of service, duty title, present and prior positions or duty assignments, all degrees (with names of granting schools and years received), and previous publications. If submitting a lecture or a paper prepared in partial fulfillment of degree requirements, the author should include the date and place of delivery of the lecture or the date and source of the degree.

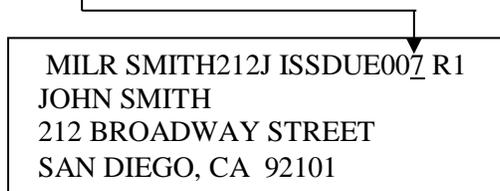
All submissions must be in Microsoft Word format and should be sent to the Editor, *Military Law Review*, at usarmy.pentagon.hqda-tjagls.list.tjagls-mlr-editor2@mail.mil. If electronic mail is not available, please forward the submission, double-spaced, to the *Military Law Review*, Administrative and Civil Law Department, The Judge Advocate General's Legal Center and School, U.S. Army, 600 Massie Road, Charlottesville, Virginia 22903-1781.

INDIVIDUAL PAID SUBSCRIPTIONS TO THE *MILITARY LAW REVIEW*

The Government Printing Office offers a paid subscription service to the *Military Law Review*. To receive an annual individual paid subscription (4 issues), complete and return the order form on the next page.

RENEWALS OF PAID SUBSCRIPTIONS: You can determine when your subscription will expire by looking at your mailing label. Check the number that follows "ISSDUE" on the top line of the mailing label as shown in this example:

When this digit is 7, you will be sent a renewal notice.



The numbers following ISSDUE indicate how many issues remain in the subscription. For example, ISSDUE001 indicates a subscriber will receive one more issue. When the number reads ISSDUE000, you have received your last issue and you must renew.

To avoid a lapse in your subscription, promptly return the renewal notice with payment to the Superintendent of Documents. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents with the proper remittance and your subscription will be reinstated.

INQUIRIES AND CHANGE OF ADDRESS INFORMATION: The Superintendent of Documents, and not the Editors of the *Military Law Review*, is solely responsible for the individual paid subscription service.

For inquires and change of address for individual paid subscriptions, fax your mailing label and new address to 202-512-2250, or send your mailing label and new address to the following address:

United States Government Printing Office
Superintendent of Documents
ATTN: Chief, Mail List Branch
Mail Stop: SSOM
Washington, DC 20402