

as used in Article 121, were not meant to encompass items not having a corporeal existence. Alternatives available for the theft of taxicab services, or other services, may be found under Article 134 as obtaining services under false pretenses or dishonorably failing to pay just debt. See, form specifications 138 and 148, Appendix 6c, MCM; Paragraph 4-138 and 4-148, DA Pam 27-9, Military Judge's Guide.

Effective Date of *Kalscheuer* Decision

On 17 August 1981, the United States Court of Military Appeals issued its decision in *United States v. Kalscheuer*, 11 M.J. 373 (C.M.A. 1981). In that case the court opined

that any delegation of the authority to authorize searches is invalid, except delegations to military judges or military magistrates. The case is discussed in Note, *Recent Case—Delegation of Authority to Authorize Searches*, *The Army Lawyer*, Sept. 1981, at 25.

The effective date of the *Kalscheuer* holding is 27 August 1981, not 17 August 1981. The authority for this is a recent criminal law message, 191400Z Aug 81, DAJA-CL 1981/8727, for SJA, subject: Delegation of Authority to Authorize Searches. The court's mandate is normally issued ten days after the date of a decision.

Administrative and Civil Law Section

Administrative and Civil Law Division, TJAGSA

Soldiers' and Sailors' Civil Relief Act—The tolling of the statute of limitations is automatic, *Bickford v. United States*, Ct. Cl. No. 372-79c.

The plaintiff, a former JAGC Captain of the Regular Army, unsuccessfully challenged the validity of the Excess Leave Program under which he attended law school. He argued that the Secretary of the Army was without authority to deny him pay and allowances during his three years in law school. One issue was whether the statute of limitations precluded his claim.

The Government argued that under the six-year statute of limitations, the Court lacked jurisdiction to entertain plaintiff's claim since

suit was filed more than nine years after his claim first accrued. The Court disagreed.

The SSCRA (50 U.S.C. App. § 525) states in part: "The period of military service shall not be included in computing any period now or hereafter to be limited by any law, regulation, or order for the bringing of any action or proceeding in any court . . . by or against any person in military service . . . whether such cause of action or the right or privilege to institute such service. . . ." The Court held that by the express terms of the SSCRA the tolling of the statute of limitations is unconditional. The only critical factor is military service: once that circumstance is established, the period of limitation is *automatically* tolled for the duration of service for *all* servicemembers.

Judiciary Notes

U.S. Army Legal Services Agency

Digest—Article 69, UCMJ, Applications

In *Jones*, SPCM 1981/5049, the accused contended that the failure of the military judge to consider correctional custody as a viable punishment at his trial by special court-martial was error and, therefore, prejudicial to his substantial rights. According to paragraph 1-5a,

AR 190-34, correctional custody is "[a] form of nonjudicial punishment which includes deprivation of liberty without confinement, authorized by article 15, UCMJ, chapter XXVI, 1969 (Revised) and chapter 3, AR 27-10". It is the view of The Judge Advocate General that courts-martial may not legally impose correctional