

Lore of the Corps

The Greatest Judge Advocate in History? The Extraordinary Life of Major General Enoch H. Crowder (1859–1932)

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Who is the greatest judge advocate in history? If “greatest” is defined as “most accomplished while in uniform,” then Major General (MG) Enoch Herbert Crowder, the Judge Advocate General (TJAG) from 1911 to 1923, is arguably the most deserving of the accolade. Crowder served an unprecedented forty-six years on active duty, was the first Army lawyer to wear two stars on his shoulders, and was TJAG for twelve years. Crowder also was the Provost Marshal General during World War I, and while serving as the Army’s top law enforcement officer, prepared the Selective Service Act of 1917 and supervised America’s first draft since the Civil War—successfully inducting over 2.8 million men into the armed services. But these achievements, noteworthy as they may be, are only a small part of what Crowder accomplished during his truly superlative career as a Soldier.

While Crowder has been called “Judge Advocate *Extraordinaire*,”¹ no one would have predicted from his humble beginnings that he was destined for greatness. Born on 11 April 1859, in a “boarded-over” log cabin in Grundy County, Missouri, Crowder grew up in a farming family. But young “Bert” Crowder “preferred reading to plowing”² and he attended a local academy, from which he graduated when he was sixteen.

Crowder then began working on a nearby farm for twenty-five cents a day (plus board) but soon decided that there must be easier ways to earn a living than manual labor. His success as a student in high school helped Crowder to obtain a position as a teacher in a nearby rural school. While he liked teaching, Crowder wanted an advanced education. His preference was to attend the state university in Columbia but it was impossible to save enough money for tuition, room, and board on a monthly salary of fifteen dollars. This explains why young Bert Crowder did what so many Americans have done when they lacked the funds for college but wanted higher education: he took the competitive West Point examination held in his congressional district, won an appointment, and, on 1 September 1877, took his oath of office as a cadet.³

¹ U.S. ARMY, JUDGE ADVOCATE GENERAL’S CORPS, *THE ARMY LAWYER: A HISTORY OF THE JUDGE ADVOCATE GENERAL’S CORPS 1775–1975*, at 104 (1975).

² DAVID A. LOCKMILLER, *ENOCH H. CROWDER: SOLDIER, LAWYER AND STATESMAN* 21 (1955).

³ *Id.* at 24. For example, Dwight D. Eisenhower, arguably the most successful West Point graduate to come out of World War II, pursued an appointment to the U.S. Military Academy not because he desired to soldier

After graduation in 1881 (ranking thirty-first in a class of fifty-four), then-Second Lieutenant (2LT) Crowder joined the 8th U.S. Cavalry at Fort Brown, near Brownsville, Texas. He must have been pleased, as “cavalry appointments were especially sought after by West Pointers . . . because they offered service on the frontier.” Since the death of Custer and his men at the Battle of the Little Big Horn had only occurred five years earlier, Crowder and officers like him knew that combat with Native American warriors was very possible.

But Crowder never saw any fighting while in Texas, and instead spent his time scouting the Rio Grande frontier for cattle thieves and supervising troopers engaged in target practice and routine marches. Crowder also decided that he had sufficient time to study law, which had interested him greatly while he was a cadet. He borrowed law books from a local attorney and, after learning enough of the statutes and procedures of Texas, was “examined by a committee of the bar” and admitted to practice in Texas in April 1884.⁴

Shortly after becoming an attorney in Texas, Crowder was assigned to Jefferson Barracks, near St. Louis, Missouri. This installation was one of the oldest military establishments in the United States, having been founded in 1826. In Crowder’s day, it was a recruit depot where newly enlisted men “were received and trained for thirty-six days before being assigned to regiments.”⁵ While supervising the basic training of new Soldiers took considerable effort, 2LT Crowder still found time to study for and pass the Missouri Bar. He was now licensed as a lawyer in two states and in the Federal courts.

Crowder now seems to have decided that he needed a law degree in order to have any luck in obtaining a transfer from the cavalry to the Judge Advocate General’s Department (JAGD). Consequently, he asked to be transferred from Jefferson Barracks to the state university in Columbia, where he would serve as professor of military science and tactics—and enroll as a law school student. The War Department granted Crowder’s request and he joined the university faculty in July 1885. Less than a year later, in June 1886, 2LT Crowder was awarded an LL.B.

but because he wanted a free education. STEPHEN E. AMBROSE, *EISENHOWER: SOLDIER, GENERAL OF THE ARMY, PRESIDENT-ELECT 1890–1952*, at 38–39 (1983).

⁴ LOCKMILLER, *supra* note 2, at 38.

⁵ *Id.* at 40.

His timing could not have been better as the next month, five days after being promoted to first lieutenant (1LT), Crowder was ordered to return to his regiment as a troop commander in the Geronimo campaign. After the Apache warrior and his men surrendered, 1LT Crowder returned to the University of Missouri, where he resumed his teaching assignment as professor of military science. Three years later, Crowder rejoined the 8th Cavalry at Fort Yates, Dakota Territory, and participated in the final campaign against the Sioux.

In 1891, Crowder asked to be “detached” from the Cavalry for service with the JAGD. This request was granted, undoubtedly because 1LT Crowder had been a licensed attorney since 1884 and had a law degree. He joined the Department, and was appointed as captain (CPT) and acting judge advocate in the Department of the Platte, Omaha, Nebraska.

Crowder excelled in his new job as legal advisor to Brigadier General (BG) John R. Brooke, Commander of the Department of the Platte. Captain Crowder “made investigations, prosecuted and reviewed court-martial cases, and prepared contracts and other legal papers.” He also authored speeches and reports for his boss, “earning a splendid reputation from his ability to turn out vast quantities of paperwork in a relatively short time.”⁶

Crowder’s hard work paid off: on 11 January 1895, he was chosen over fifty other applicants to receive a permanent appointment in the JAGD. This meant a permanent transfer from the Cavalry and a promotion from CPT to major (MAJ). Crowder was thirty-six-years old and, as he was now the youngest officer in the JAGD, had a bright future.⁷

When the Spanish-American War began in 1898, now-lieutenant colonel (LTC) Crowder was in the Philippines. Although he did not see combat (much to his regret), Crowder distinguished himself in a variety of assignments during the days and months that followed. Crowder was a member of the commission that arranged final terms for the surrender of Manila and the Spanish Army; he later worked closely with MG Arthur MacArthur, the Provost Marshal General, to establish a new government for Manila.⁸

In April 1899, Crowder was named the president of the Board of Claims and in that position oversaw claims for money damages filed by Filipino citizens against the United States. Most of the claims were for damages to or loss of livestock, horses, supplies, and buildings. Some were fraudulent and some were excessive, but all had to be heard. Crowder and the three other Army officers on the board rejected claims that were incident to American combat operations with Spanish troops, but recommended the payment of hundreds of meritorious claims.

At the same time, LTC Crowder was also serving on the Philippine Supreme Court; he had been appointed an associate justice of the civil division in May 1899. Crowder and his fellow justices not only heard civil and criminal appeals, but also reorganized the Philippine court system. Crowder personally authored the new *Philippine Code of Criminal Procedure*. The existing Spanish colonial framework was imperfect and was no longer functioning well. Crowder’s code, which was “remarkable for its brevity and clearness,” replaced that regime. According to Crowder’s biographer, his code (with some amendments) continued to be the foundation of criminal justice in the Philippines until at least the 1950s.⁹

In May 1900, MG MacArthur became the military governor of the Philippines. Remembering Crowder from their earlier time together when MacArthur was Provost Marshal General, MacArthur immediately transferred Crowder from his Supreme Court duties and made Crowder his military secretary and legal advisor. This meant that LTC Crowder was now the “civil administrator of the Philippines and actually, if not in rank, the second in command.” Departments and bureaus under Crowder’s direct control included: the Treasury and Customs Departments; Forestry, Mining and Civil Service Bureaus; Patent and Copyright Office; Department of Public Works; and Judicial Department. Crowder also had direct responsibility for all municipal and provincial governments in the islands.¹⁰

The military government of the Philippines was replaced by a civilian administration in July 1901, and MG MacArthur, LTC Crowder, and other military administrators left the islands for the United States. Crowder’s performance, however, had been so impressive that President Theodore Roosevelt rewarded him with an appointment as a brigadier general in the Volunteer Army. This promotion occurred on 20 June 1901 but only lasted ten days: when the military government ceased at the end of the month, Crowder reverted to his permanent rank of LTC and had to remove the silver stars from his shoulders.¹¹ It was, however, a unique event in judge advocate history: the first

⁶ *Id.* at 59.

⁷ *Id.* at 61.

⁸ *Id.* at 71.

⁹ *Id.* at 78.

¹⁰ *Id.* at 80.

¹¹ *Id.* at 84.

time that an Army lawyer other than the Judge Advocate General (tJAG)¹² had worn general officer rank. The promotion had been very much deserved. Major General MacArthur said that he could not remember any time in American history “any instance in which a purely military officer had discharged such a variety of civil duties in a manner so entirely beneficial to the public interests.” The future president, William Howard Taft, was just as effusive in his praise: Crowder “did, to my personal knowledge, an enormous amount of very hard work, and he did it well.”¹³

Crowder then returned to Washington, D.C., where tJAG, BG George Davis, appointed him as a deputy in the Judge Advocate General’s Office. In this position, LTC Crowder assisted Davis in receiving and reviewing the proceedings of all courts-martial, courts of inquiry, and military commissions. He also served as legal advisor to the Secretary of War and other officials of the War Department. Finally, Crowder and other judge advocates “made inspections, prepared all sorts of legal papers, and rendered opinions on questions of military law.”¹⁴

In April 1903, Crowder was promoted to colonel (COL) and, subsequently chosen to be “chief of the First Division of the Chief of Staff.” This position, the forerunner to today’s Deputy Chief of Staff for Personnel (G-1), had been created as a result of Congress’s decision to create an Army General Staff. Crowder’s new job required him to study and report on pending military legislation, reorganization plans, and general administrative matters affecting the Army. Colonel Crowder again excelled in this non-lawyer assignment. When the Japanese attacked Russian units in 1904, Crowder’s boss, Army Chief of Staff Lieutenant General A. R. Chaffee decided that Crowder was the best man to send to the Far East. As a result, COL Crowder was the senior American observer with the Imperial Japanese Army during the Russo-Japanese War of 1904–1905. He witnessed first-hand the battles fought between Japanese and Russian armies in Manchuria, including the fighting around strategic city Mukden, where a Japanese force of 460,000 defeated 360,000 Russians.¹⁵

Colonel Crowder returned to the United States in June 1905 and reported for duty in Washington, D.C. Slightly more than a year later, William Howard Taft, now the Secretary of War, personally selected Crowder to be the legal advisor to the U.S.-sponsored Provisional Government of Cuba. From October 1906 to January 1909, COL Crowder

was in Havana, where he made his biggest contribution as chairman of the Advisory Law Commission. This body, which consisted of nine Cubans and three U.S. citizens, drafted a municipal law that organized municipalities and gave them independence in local matters. Crowder and his fellow commissioners also drafted an electoral code that recognized universal manhood suffrage, “but restricted eligibility for public office to Cubans who could read and write.” Finally, the Advisory Law Commission also created a judicial law that overhauled the legal system in Cuba; its major achievement was to free the judiciary from the executive, to which it had been subordinate under Spanish colonial law.¹⁶

When COL Crowder left Havana in January 1909, his “brilliant intellect and indefatigable industry” were lauded by both Cubans and Americans.¹⁷ He returned to the Office of the Judge Advocate General but, within months, was detailed by now-President Taft (who knew him well from their years in the Philippines and knew of his talents as a diplomat) to be a member of the U.S. delegation to the Fourth Pan American Conference. Crowder represented the United States in Buenos Aires, Argentina, before making official visits to Chile, Colombia, Ecuador, Panama, and Peru.

From South America, COL Crowder took a steamer to Europe, where he studied the military penal systems of England and France with the view that examining British and French courts-martial might suggest improvements or reforms in the Articles of War that governed military justice in the Army.

Crowder returned to Washington, D.C., in late 1910. Major General George Davis was scheduled to retire as tJAG in February and had recommended COL Crowder to succeed him. Given this endorsement and Crowder’s relationship with President Taft, no one was surprised when, on 11 February 1911, the president nominated COL Crowder to be tJAG with the rank of brigadier general. When he was confirmed by the Senate a short time later, BG Crowder made history again as the first in the West Point Class of 1881 to become a general officer.¹⁸

¹² Prior to 31 January 1924, the top uniformed lawyer in the Army was “the Judge Advocate General.” On that day, however, War Department General Orders No. 2, announced that the position would now be known as “The Judge Advocate General.”

¹³ LOCKMILLER, *supra* note 3, at 85.

¹⁴ *Id.* at 87.

¹⁵ *Id.* at 92–93, 100–08.

¹⁶ *Id.* at 115–16.

¹⁷ *Id.* at 118.

¹⁸ *Id.* at 132.

As tJAG, Crowder implemented a number of far-reaching changes. He directed that JAG opinions be published regularly and disseminated to the field. Crowder also decided that all opinions issued since 1862 would be collected and published as a new digest; this occurred in 1912. Crowder also convinced the War Department to create a program for line officers to be sent to law school at government expense—the forerunner of today’s Funded Legal Education Program. Finally, BG Crowder oversaw the revision of the Articles of War (they had not been revised since 1874) and directed the revision and publication of a new *Manual for Courts-Martial*.

Crowder also was the driving force behind major reforms in the operation of prisons in the Army. It was BG Crowder who, after lengthy consultation with sociologists and penologists, convinced the Army—and the Congress—to create the U.S. Disciplinary Barracks at Fort Leavenworth, Kansas. For the first time, the Army embraced the idea that “the primary purpose” of the Army prison system should be to identify incarcerated Soldiers who could be rehabilitated and restored to duty.¹⁹

The American entry into World War I shifted Crowder’s focus away from military law and lawyers. He was appointed Provost Marshal General by the Army’s leadership and quickly took charge of the Army’s transformation from a small professional all-volunteer service to a wartime force consisting largely of civilian draftees. Starting in May 1917, after the Congress passed America’s first Selective Service Act (prepared by General Crowder and his assistants), he supervised the registration, classification and induction of over 2.8 million men into the armed forces. Crowder’s “especially meritorious and conspicuous service as Provost Marshal General in the preparation and operation of the draft laws of the Nation during the War” was later recognized with the award of the Army Distinguished Service Medal.²⁰

Now-MG Crowder (legislation enacted by Congress in 1916 made tJAG a two-star position) was so successful in implementing the wartime draft that, in the summer of 1918, a provision “was inserted in the Army Appropriation Bill” to promote him to three-star rank.²¹ Crowder already was the first judge advocate to wear two stars; if this 1918 provision had become law, he would have been the first judge advocate to reach the rank of lieutenant general. But, uncomfortable with the idea of being a “swivel chair” lieutenant general, Crowder refused the promotion and instead—unsuccessfully—asked for a field command in France.²²

¹⁹ *Id.* at 136–37.

²⁰ War Department, Gen. Orders No. 144 (18 Nov. 1919).

²¹ LOCKMILLER, *supra* note 3, at 191.

²² THE ARMY LAWYER, *supra* note 1, at 105.

After World War I ended, MG Crowder found himself, along with the entire military justice system, under attack for being “un-American.” Brigadier General Samuel T. Ansell, a friend and fellow Army lawyer who had served as Acting Judge Advocate General and performed much of the Army’s legal work while Crowder focused on the draft, charged that courts-martial were “patently defective” and needed immediate revision by Congress. While Crowder vigorously defended the system against attacks by Ansell and others, he nonetheless recommended certain reforms to Congress. These included greater protections for the accused and a new authority in the President to reverse or alter any court-martial sentence found by him to have been adjudged erroneously.²³

On 14 February 1923, after forty-six years of service, General Crowder retired from active duty. That same day, he topped off his remarkable career as a Soldier by immediately accepting an appointment as the first U.S. Ambassador to Cuba. This was a highly unusual event, because active and retired Army and Navy officers are prohibited by law from holding any appointment in the Diplomatic and Consular Service.²⁴ The result was that, on 22 January 1923, Congress enacted special legislation so that Crowder could accept this diplomatic post,²⁵ which he held until leaving Havana in 1927. Crowder settled in Chicago, where he practiced civilian law until he died in 1932, aged seventy-three years. He never married and left the bulk of his estate to his sisters.

²³ ENOCH J. CROWDER, *MILITARY JUSTICE DURING THE WAR* 64 (1919), available at http://www.loc.gov/frd/Military_Law/MJ_during_war.html. In this sixty-page letter to the Secretary of War, MG Crowder made his defense of the American military justice system and his recommendations for Congressional and executive reform of that system. As noted in that letter, MG Crowder had previously asked the Secretary to implement three-man Boards of Review, “for the purpose of equalizing punishment through recommendations for clemency.” *Id.* at 42. His recommendations for reform included the institution of a “law member,” that is, a lawyer from the Judge Advocate General’s Department to serve as a panel member and give legal advice to the panel in “serious, difficult, and complicated cases.” *Id.* (Previously the panel had received its legal advice from the prosecuting judge advocate.) This reform was implemented and the “law member” was the forerunner of today’s Military Judge. See Fred L. Borch, III, *The Trial by Court-Martial of Colonel William “Billy” Mitchell*, *ARMY LAW.*, Jan. 2012, at 1, 2 n.9. For more on the controversy over reforming the Articles of War, see Terry W. Brown, *The Crowder-Ansell Dispute: The Emergence of General Samuel T. Ansell*, 35 *MIL. L. REV.* 1 (1967); JOHN M. LINDLEY, *A SOLDIER IS ALSO A CITIZEN: THE CONTROVERSY OVER MILITARY JUSTICE, 1917–1920* (1990).

²⁴ Revised Statutes, sec. 1223 (1923).

²⁵ 42 Stat. 1160 (1923). While Congress acceded to President Harding’s request that Crowder be made an ambassador, the legislation denied Crowder his military retired pay during the period of this diplomatic appointment. He earned \$17,500 a year as ambassador.

Crowder has not been forgotten. On the contrary, he was the first Judge Advocate General to have a full-length biography.²⁶ But was MG Crowder the “greatest” judge

advocate in history? He certainly had a remarkable life and an equally remarkable career, and no one in our Regiment’s history has ever accomplished more as an Army lawyer.

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/8525736A005BE1BE>

²⁶ In addition to Crowder, Brigadier General Joseph Holt, who served as JAG from 1862 until 1875, has been the subject of biographers. Two biographies have been published, both in 2011: JOSHUA E. KASTENBERG, *LAW IN WAR, WAR AS LAW: BRIGADIER GENERAL JOSEPH HOLT AND THE JUDGE ADVOCATE GENERAL’S DEPARTMENT IN THE CIVIL WAR AND EARLY RECONSTRUCTION, 1861–1865* (2011); ELIZABETH D. LEONARD, *LINCOLN’S FORGOTTEN ALLY: JUDGE ADVOCATE GENERAL JOSEPH HOLT OF KENTUCKY* (2011).