

A PATRIOT'S HEART: A SUMMARY AND ANALYSIS OF *An Oral History of Colonel William S. Fulton, Jr., United States Army (Retired) (1943-1983)*; and Addendum To Oral History, *The Clerk of Court Years (1983-1997)*¹

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I. Introduction

pa·tri·ot 'pA-trE-ät, -"ät, chiefly British 'pa-trE-ät
Function: *noun* Etymology: Middle French *patriote* compatriot, from Late Latin *patriota*, from Greek *patriOtEs*, from *patria* lineage, from *patr-*, *patEr* father³

1. Major Wendell A. Hollis, *An Oral History of Colonel William S. Fulton, Jr., United States Army (Retired) (1943-1983)* (March 1990) [hereinafter *Oral History*] (unpublished manuscript on file with The Judge Advocate General's School Library, United States Army, Charlottesville, Virginia). The manuscript was prepared as part of the Oral History Program of the Legal Research and Communications Department at The Judge Advocate General's School, United States Army, Charlottesville, Virginia. This article also incorporates information provided in an addendum to the oral history, entitled "Addendum, *The Clerk of Court Years, 1983-1997*," prepared by Colonel Fulton in February 2001 [hereinafter *Addendum*]; as well as information provided during interviews conducted by the author with Colonel Fulton and several of the individuals mentioned in the oral history, in March through April 2002 [hereinafter *Fulton Interviews*] (on file with author); and personnel documents provided by Colonel Fulton (on file with Colonel Fulton).

2. Judge Advocate General's Corps, United States Army. Presently assigned to the Office of The Judge Advocate General. LL.M., 2002, The Judge Advocate General's School, United States Army, Charlottesville, Virginia; J.D., 1994, Creighton University School of Law; B.S., 1988, United States Military Academy. Previously assigned as Chief of Military Justice, Office of the Staff Judge Advocate, 1st Infantry Division, Würzburg, Germany, 2000-2001; Senior Defense Counsel, Bamberg Field Office, 1999-2000; Trial Defense Counsel, Hohenfels Branch Office, 1997-1999; Trial Counsel and Chief, Administrative and Operational Law, Office of the Staff Judge Advocate, 4th Infantry Division, Fort Hood, 1995-1997; Legal Assistance Attorney, Office of the Staff Judge Advocate, 2d Armored Division, Fort Hood, 1994-1995; Funded Legal Education Program, 1991-1994; Executive Officer and Platoon Leader, 181st Chemical Company, 2d Chemical Battalion, Fort Hood, 1990-1991; Battalion Chemical Officer, 3d Battalion, 1st Air Defense Artillery Regiment, 31st Air Defense Artillery Brigade, Fort Hood, 1988-1990. Member of the bars of the State of Nebraska, the Army Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the United States Supreme Court.

2a. One who disinterestedly or self-sacrificingly exerts himself to promote the well-being of his country⁴

On 20 January 1961, John F. Kennedy became the thirty-fifth President of the United States; and in his Inaugural Address in Washington, D.C., when the United States was facing difficulties both foreign and domestic, he issued his now famous challenge to the American people: “ask not what your country can do for you—ask what you can do for your country.”⁵

William Sherwin Fulton, Junior, was stationed at Fort Leavenworth, Kansas, the day President Kennedy spoke those words, but already the soldier-lawyer from Iowa was living them, having enlisted in 1943, fought in World War II and Korea, and accepted a battlefield commission that eventually led to a commission in The Judge Advocate General’s Corps. Already Bill Fulton personified those words, and he continued to do so throughout his lifetime of service to the nation. Throughout his fifty-four years of service to the country, his tireless work ethic and selfless response to the call of duty were a model for emulation and significantly impacted the lives of those with whom he worked. While the term “patriot” has since become the name of an air defense artillery system, the title of a motion picture, and most recently the name of anti-terrorist legislation, Bill Fulton’s service to the United States—as an enlisted soldier, a commissioned officer, and a federal civilian—defines the term in its purest sense.

This article is a summary and analysis of interviews conducted with Colonel (Retired) Fulton in March 1990, an addendum that he added to the text of his interviews in February 2001, and interviews conducted with him and others in April 2002. The initial interview and his addendum have been bound in “*An Oral History of Colonel William S. Fulton, Jr., United States Army (Retired)*” and are maintained at the Judge Advocate General’s School in Charlottesville, Virginia. Presented in the context of dedication to country, dedication to the law, and dedication to service, this article examines Colonel Fulton’s fifty-four years of service, from his enlistment

3. WEBSTER’S NEW WORLD DICTIONARY OF AMERICAN ENGLISH (3d. College ed. 1988), <http://www.m-w.com/cgi-bin/dictionary>.

4. THE OXFORD ENGLISH DICTIONARY 349 (2d ed. 1998).

5. President John F. Kennedy, Inaugural Address, Washington, D.C. (Jan. 20, 1961), <http://www.jfklibrary.org/j012061.htm>.

in 1943 to his final retirement from federal service in 1997, a history that both defines and reveals the legacy of a patriot's heart.

II. 1925—1951: Dedication to Service: A Patriot's Duty

I was at home on Sunday afternoon, December 7th, 1941, in our apartment across the street from Drake University, about a half-block from our church, preparing to attend an evening youth service, when we learned the Japanese had attacked Pearl Harbor [I]t wasn't long until the names of some began to appear with gold stars on a wall we had reserved as a memorial at North High . . . [for those] killed in action.⁶

A. Iowa: From Hawkeye Boys' State to Enlistment at Camp Dodge

Born on 14 September 1925, in Des Moines, Iowa, William Sherwin Fulton, Junior, heard the call to duty early in his life. The son of William Sherwin Fulton, Senior, and Hazel Marie (Douglas) Fulton, "Sherwin Junior," as he was known until high school, was attracted to the military lifestyle as a young boy, despite having no military family background. At age eight, having read about a nearby military school in *Boys Life*, he requested literature from the school, explaining in a letter that although the minimum age for admission was eleven, "it might take three years for me to persuade my parents to send me!"⁷

Apparently unsuccessful in convincing his parents to send him to military school, Bill Fulton graduated from North High School, Des Moines, in 1943, having been elected president of his student council. Unable to enlist because he was not yet eighteen, and eager to begin his college education, he enrolled in the summer session at the University of Iowa in 1943. That same summer, the Army established a college training program for enlisted reservists called the Army Specialized Training Reserve Program (ASTRP), which permitted men at least seventeen years of age to enlist in the Enlisted Reserve Corps, a precursor to the Army Reserve. In return for an agreement to serve on active duty once turning eighteen, the program assisted in providing a college education. While attending classes at Iowa, Bill Fulton joined the ASTRP in order to enter the Army as soon as possi-

6. Oral History, *supra* note 1, at 5.

7. *Id.* at 4.

ble, with full knowledge that his enlistment would invariably thrust him into World War II. Indeed, while the program enabled him to attend a semester of college at the University of Kansas, by November 1943, Private Fulton had received active duty orders to Camp Dodge, Iowa, with follow-on orders to basic combat training at Fort Benning, Georgia.

While at North High, Bill Fulton had become interested in attending law school, and it was there that he “tried [his] first case.”⁸ While involved in a mock-government program for high school students called “Hawkeye Boys’ State,” he was elected a county attorney and earned the distinction of prosecuting a fellow county citizen for urinating in the shower, arguably a violation of the Iowa Code.⁹ More noteworthy during his time at North High is that he met Marjorie Porter, who would later become his wife.

B. World War II: The 86th Infantry Division and the European and Asiatic-Pacific Theaters

Just months after his acceptance into the ASTRP, Bill Fulton turned eighteen and was called to active duty. After completing basic training at Fort Benning in March, 1944, Private Fulton was assigned to the 86th Infantry Division at Camp Livingston, Louisiana, a unit that had been largely dismantled to provide replacements for casualties in Europe. As a member of Company F, 341st Infantry Regiment, 86th Infantry Division, Private Fulton served as a rifleman, handling the bazooka and later the flame thrower for his squad, until he was promoted from private first class to sergeant while training at Camp San Luis Obispo, California.¹⁰

The 86th Infantry Division had initially been earmarked for amphibious warfare operations in the Pacific, which resulted in training exercises for the Division at various training camps in California. In February 1945, after the Battle of the Bulge, the 86th Infantry Division was needed in Germany, and Sergeant Fulton soon found himself at Camp Myles Standish, near Boston, Massachusetts, en route to Europe. His life had changed dramatically in the eighteen months since his enlistment. In addition to briefly attending college, completing basic training, and rising to the rank of sergeant, he had become engaged to Marjorie in April 1944, and just

8. *Id.* at 5.

9. *Id.*

10. Colonel Fulton was never an E-4. In light of his squad’s need for an assistant squad leader, he was promoted from E-3 to E-5 upon his promotion to assistant squad leader. Fulton Interviews, *supra* note 1.

months later, had unexpectedly lost his forty-one year-old father to a heart attack.

The Division arrived at Le Havre, France, on 2 March 1945, and settled at Camp Lucky Strike. It was there that Sergeant Fulton's company commander offered him the position as communications chief, which led to a promotion to staff sergeant. Staff Sergeant Fulton was then responsible for managing and maintaining all of the company's internal and external communications equipment when the 86th Division moved east into Germany, relieving the 8th Infantry Division near Köln and occupying the west bank of the Rhine River, opposite what had become the "Ruhr Pocket."¹¹

Staff Sergeant Fulton's service with the 86th Infantry Division took him deep into Nazi Germany, where his division assisted the XVIII Airborne Corps in eliminating the resistance in the Ruhr pocket, then through Frankfurt and south of Würzburg, where the Division joined the III Corps of General Patton's Third Army. In April 1945, the 86th Infantry Division captured Ingolstadt on the Danube, became one of the first divisions to cross that river under fire, then moved in pursuit toward the Austrian border, encountering surrendering German soldiers, displaced persons, POWs, and other casualties of the long-standing war in Europe. Passing north of Berchtesgaden and Hitler's "Eagle's Nest," Sergeant Fulton's unit crossed the Salzach River into Austria on 4 May 1945, just days after Hitler's suicide on 30 April 1945. Germany surrendered unconditionally one week later. The Division was not to return home, however; "[a]s soon as the war in Germany ended, we were told we were going to the Asiatic-Pacific Theatre, for which we had trained and where the war was not yet over."¹²

After returning to the United States for a brief period of leave, the 86th Infantry Division reassembled at Camp Gruber, Oklahoma, for deployment to the Pacific theater, and soon moved to Camp Stoneman, California, for transportation to the Philippines. The Division departed for the Philippines on 21 August 1945, shortly after the dropping of the atomic bomb on Hiroshima on 6 August 1945, and the Japanese surrender a week later. Once in the Philippines, Sergeant Fulton's division patrolled the mountain areas in central Luzon "searching for recalcitrant or uninformed Japanese soldiers."¹³ Sergeant Fulton later learned that his division would

11. Oral History, *supra* note 1, at 17.

12. *Id.* at 18.

have been one of six divisions from Europe constituting follow-on forces for the planned invasion of Japan, had the war not ended when it did.

For his service in the European and Asiatic-Pacific Theaters, Sergeant Fulton's awards included the Combat Infantryman's Badge (CIB), the World War II Victory Medal, and the Bronze Star.¹⁴ He was twenty years-old when he returned to the United States in April 1946.

C. Return to Iowa: Law School

Sergeant Fulton's three-year enlistment was to expire in July 1946. On 23 April 1946, at Fort Leavenworth, Kansas, he enlisted for another three years in the Enlisted Reserve Corps. At that time, there was not yet a reserve retirement system, and notwithstanding having just spent over a year abroad during World War II, Sergeant Fulton believed that reenlisting "was the patriotic thing to do," for no reason "other than my interest in the Army and a desire to serve if and when necessary."¹⁵ He married Marjorie Porter in Des Moines, Iowa, on 1 June 1946.

Immediately following their honeymoon in Chicago, the Fultons moved to Iowa City, where Bill Fulton re-enrolled at the University of Iowa, and Marjorie Fulton worked in the University Library. With the help of the G.I. Bill, Bill Fulton completed his undergraduate studies in 1948¹⁶ and enrolled in law school at the University. He had contracted pneumonia in December 1947 and was advised to move to the southwest to improve his health. The Fultons relocated to Albuquerque, New Mexico, in the summer of 1948, and Bill Fulton graduated from the New Mexico School of Law in 1950. While in Albuquerque, he inquired about service

13. *Id.* at 22.

14. When asked about the Bronze Star Medal, Colonel Fulton said, in his characteristically modest demeanor, that "sometime after the war, it was decided that anyone who had earned the CIB deserved a [Bronze Star Metal]. So . . . I sent in a copy of the orders authorizing my CIB and they sent me a BSM. No citation, no ceremony." E-mail from Colonel Fulton to author (Oct. 8, 2002) (on file with author).

15. Oral History, *supra* note 1, at 25.

16. He did not receive his undergraduate degree until 1972. In late 1947, having almost sufficient credits to enroll in the law school, he was short only language courses. The University permitted him to enroll in law school on the condition that he later satisfy the language requirement. In 1972, the University of Iowa awarded him credit for the Chinese language skills he obtained in Taiwan and awarded him his Bachelor of Arts degree. *Id.* at 32.

as a Navy law specialist with the local Naval Reserve unit, but was turned down due to his poor eyesight.

On 25 June 1950, North Korea invaded South Korea. Not surprisingly, Bill Fulton had reenlisted in the Reserve a year earlier for another term of three years. Uncertain how to tell his young wife that he wanted to go to Korea—“after she had helped put me through college and law school . . . and we were on the verge of a new life”—as it turned out, he didn’t have to: “President Truman told both of us. I was recalled to active duty.”¹⁷ Ironically, “we inactive reservists were being recalled first because we were taking advantage of a lower selective service category by being in the reserves, but were not participating in the program. Draft dodgers, in other words!”¹⁸

Without hesitation, the Fultons returned to Des Moines, where Marjorie Fulton obtained employment at a life insurance company, and Sergeant Fulton received orders to Fort Hood, Texas.

D. Korea: Battlefield Commission

Sergeant Fulton was disappointed when he arrived at Fort Hood for eleven days of “refresher training” before being shipped to Korea. Expecting “a reunion of World War II veterans,” he found himself instead amidst “late-in-the-war draftees who had seen no combat.”¹⁹

Arriving in Japan on a troop ship in December 1950, Sergeant Fulton began his second combat tour as an individual replacement rather than as a member of a cohesive unit as he had been during his service in World War II with the 86th Infantry Division.²⁰ The newly admitted member of the New Mexico bar was assigned to Company M, 19th Infantry Regiment, a heavy weapons company in support of the regiment’s 3d Battalion. His company had been recently reorganized after the 34th Infantry Regiment “had been decimated early in the war and had been deactivated so that its two battalions could become the previously nonexistent third battalions of the 19th and 21st, respectively.”²¹ As it turned out, Company M needed a

17. *Id.* at 36.

18. *Id.* at 36-37. President Truman did not actually use the term “draft dodgers,” but that was the perception. Colonel Fulton’s selective service category was low not due to his inactive reserve status, but because of his World War II service. Fulton Interviews, *supra* note 1.

19. Oral History, *supra* note 1, at 37.

communications chief of the mortar platoon, and its leaders were quite “pleased to learn that I had been the communications sergeant of my rifle company in World War II.”²² Sergeant Fulton thereby began his tour in Korea as the mortar platoon’s communications chief. During this tour, two events occurred that stayed with him forever, the first touching his sense of honor, and the second moving him toward a new future.

On 4 February 1951, the battalion’s rifle companies came under a fierce Chinese counterattack in the battle of Sesim-ri. After a full day of fighting, contact was broken, and Sergeant Fulton’s mortar platoon was led to the rear.²³ For Sergeant Fulton, this day—when he felt his unit was “running away”—was devastating.

The defeat of American arms, even to that small extent, is I think the most devastating [long pause], worst thing that could ever happen to a man [long pause]. I just felt too ashamed, so heart-broken to be beaten like that, even for a day [very tearful], and I can’t talk about it even now, this many years later, without tears.²⁴

Six months later, after his promotion to Sergeant First Class, Sergeant Fulton’s company commander asked him if he would accept a commis-

20. Colonel Fulton later reflected,

I came away from this movement with the feeling that going overseas as an individual replacement is absolutely the pits; the most miserable, morale-busting experience a soldier can go through. Of course, my previous experience had been crossing the Atlantic and the Pacific as a member of a unit, so that was my model. This was just terrible.

Id. at 40.

21. *Id.* at 41.

22. *Id.*

23. Colonel Fulton later learned, after reading a book by Edward F. Murray entitled *Korean War Heroes* (pages 142-43), that

SFC Stanley Adams of Company A earned the Congressional Medal of Honor that day . . . I’m not clear on whether our 3d Battalion rifle companies were engaged or in reserve. In any event, partly because of Adams, the Chinese broke off the fight. (Of course, I didn’t know this, but apparently neither did our platoon leader, who was leading us to the rear almost “on the double”).

Fulton Interviews, *supra* note 1.

24. Oral History, *supra* note 1, at 43.

sion. The veteran communications sergeant had scoffed when another of the company officers had suggested that he look into a legal officer's position at division: "I didn't think I could ever be at home in division headquarters; I belonged with troops."²⁵ Eventually, due largely to the leadership and inspiration of his commander, Captain Bill Patch,²⁶ Sergeant Fulton did accept a commission, and in Inchon, Korea, on 27 August 1951, he was commissioned a Second Lieutenant of Infantry in the Officers' Reserve Corps. Ordered immediately to active duty, Lieutenant Fulton departed division headquarters and reported back to Captain Patch as the platoon leader of the recoilless rifle platoon.

It was also about this time that the Army commenced its efforts at racial integration. When Sergeant Fulton arrived in Korea in December 1950, there were all-black regiments assigned to the theater, such as the 24th Infantry Regiment of the 25th Infantry Division, as there had been in World War II. While in the Philippines in 1946, Sergeant Fulton had been shocked to learn that his high school classmate and friend, Lonnie Howard, belonged to a unit consisting entirely of black soldiers; he was largely unaware of segregation in the Army until he arrived in Europe. By the spring of 1951, black soldiers were arriving as replacements in Sergeant Fulton's unit, the 19th Infantry Regiment; in fact, Captain Bill Patch's replacement, First Lieutenant Samuel E. Kelley, was a black officer from Seattle, Washington. Sergeant Fulton noted then, as well as years later, that "the Army finally (albeit belatedly) demonstrated there is no proper course other than integration."²⁷

Lieutenant Fulton departed Korea in January 1952, having been promoted to first lieutenant in December 1951. Years later, Colonel Fulton described himself during this time as not "a bold, aggressive leader, nor was I just trying to survive. I was simply trying to excel in whatever I did, and with whatever I could learn, to accomplish my mission with optimum security of the troops committed to my care."²⁸ His awards included a sec-

25. *Id.* at 48.

26. Bill Patch was the nephew of Lieutenant General Alexander Patch, Commander of the Seventh Army in Europe during World War II. Bill Patch later became a general officer and eventually commanded Fort Dix, where then-Colonel Wayne Hansen was his Staff Judge Advocate. *Id.* at 47.

27. *Id.* at 57.

28. *Id.* at 59.

ond CIB, a second Bronze Star Medal, and five battle stars, one for each of the five Korean War campaigns in which he participated.²⁹

After departing Korea, Lieutenant Fulton reported to the Associate Infantry Company Officer Course at Fort Benning, Georgia, where he had attended basic combat training as an enlisted soldier eleven years earlier. Attending the course with mostly lieutenants who “had only recently been commissioned through ROTC and were now entering active duty for the first time,”³⁰ Lieutenant Fulton distinguished himself as the honor graduate of his class.

The circumstances surrounding Bill Fulton’s entry into the Army were an early sign of his devotion to duty: unable to wait to enlist until he was eighteen, the young high school graduate found a program—the ASTRP—that allowed him to enlist at age seventeen. Even after his safe return from World War II, Bill Fulton was unable to sit back while others stepped forward; he re-enlisted before law school and eventually served in combat again during the Korean War. Whereas many, if not most, law school graduates with new families might find two combat tours a sufficient response to duty’s call, for Bill Fulton it was only the beginning of his service to the nation. Headed to the 10th Infantry Division at Fort Riley, Kansas,³¹ he was eager to accept a command³² and to continue his military service as a commissioned officer of infantry.

III. 1952—1983: Dedication to the Law: A Patriot’s Honor

When we arrived [at Fort Riley, Kansas,] in July 1952, I reported to [the Chief of Staff]. In talking about my assignment, he said he had noticed I was a lawyer. He said they needed another lawyer in the Division Staff Judge Advocate Office. I said that I

29. Colonel Fulton earned five battle stars during the Korean War: CCF Intervention (3 Nov. 1950 - 24 Jan. 1951), First UN Counteroffensive (25 Jan. - 21 Apr. 1951), CCF Spring Offensive (22 Apr. - 8 July 1951), UN Summer-Fall Offensive (9 July - 27 Nov. 1951), and Second Korean Winter (28 Nov. 1951 - 30 Apr. 1952). Fulton Interviews, *supra* note 1.

30. Oral History, *supra* note 1, at 60.

31. At that time, the 10th Infantry Division’s primary mission was basic combat training, sending its graduates to Korea as individual replacements. *Id.* at 61.

32. During his first two weeks at Fort Benning, Lieutenant Fulton served as acting commander of a company whose commander was on leave, an experience that enhanced his desire to command at his next assignment. *Id.*

really wanted troop duty. I hoped to command a company. . . . [He] wanted to know if I would at least go talk to the SJA. I sensed that the correct answer was “Yes, sir.” So I did.³³

A. An Unexpected Branch Transfer

Lieutenant Fulton’s hopes for a command quickly gave way to the needs of the Division; within weeks of his arrival as an infantry lieutenant at Fort Riley, he was assigned to the Office of the Staff Judge Advocate as the claims officer. Just months later, having been certified by The Judge Advocate General,³⁴ the young infantry officer became a trial counsel, then later a defense counsel.

Moved by the sense of camaraderie, competence, and dedication shared by the five officers in the Office of the Staff Judge Advocate, and impressed with the leadership provided by one of his Staff Judge Advocates (SJA), Colonel Harry J. Engel, Lieutenant Fulton—now having served almost ten years in the Army—debated whether to make the Army a career. Having been recalled to active duty for the Korean War as an enlisted soldier after finishing law school and being admitted to the bar, Lieutenant Fulton had not contemplated a military career, let alone a military legal career; indeed, “[my] only experience was to have had the Articles of War read to me a number of times and, once, in Korea, articles of the new Uniform Code of Military Justice while sitting under some trees in the shadow of a Quad-40-millimeter anti-aircraft half-track.”³⁵ Due largely to the positive influence of Colonel Engel, Lieutenant Fulton applied for a Regular Army (RA) commission in The Judge Advocate General’s Corps in January 1953.

Shortly after submitting his application, Lieutenant Fulton was transferred to the Pentagon, where he would undergo a “90-day observation

33. *Id.*

34. Under the Uniform Code of Military Justice (UCMJ), which was enacted in 1950, judge advocates must be certified by The Judge Advocate General as competent to perform the duties of trial and defense counsel. UCMJ art. 27(b)(2) (2002). Ordinarily, certification occurs during the Judge Advocate Basic Course; however, Colonel Fulton never attended the basic course and did not become a member of the JAG Corps until May 1954. Accordingly, he was required to individually request certification through his Staff Judge Advocate, which he did upon his assignment to the Office of the Staff Judge Advocate at Fort Riley. Oral History, *supra* note 1, at 64, 71.

35. Oral History, *supra* note 1, at 61.

tour, presumably to be followed, if successful, by a permanent assignment there or somewhere.”³⁶ He reported to the Pentagon having never attended the Judge Advocate Basic Course, instead “learning on the job the kinds of things I supposed were taught at the JAG School.”³⁷ Assigned to the Personnel Law Branch of the Military Affairs Division, the predecessor to the Administrative Law Division of the Office of The Judge Advocate General (OTJAG), Lieutenant Fulton arrived in Washington, D.C. in March 1953, with his wife and their daughter, Sheri Marie Fulton, who had been born at Fort Riley in September 1952.

B. The Pentagon

His ninety-day observation tour turned into a three-year tour at the Pentagon, where Lieutenant Fulton saw significant legislative changes that molded the Army into what it is today. The Career Compensation Act of 1949 was still new, and the Military Affairs Division was busy rendering opinions that soon became precedent, concerning special pay, incentive pay, hazardous duty pay, and what later became the new joint travel regulations. The Armed Forces Reserve Act of 1952 had been recently enacted, making reserve commissions permanent rather than for a term of five years. As Lieutenant Fulton’s RA commission application had not yet been accepted, the change permitted him to accept a permanent reserve commission while his RA application was pending. The Act also provided for a new reserve organizational structure, “the legal foundation of the Reserve Components, both the U.S. Army Reserve, and the National Guard of the United States.”³⁸

At the same time, Titles 10 and 32 of the United States Code were being redrafted “for the purpose of enactment into positive law, so that the U.S. Code, rather than statutes scattered throughout the multi-volume Statutes at Large, would be the official version.”³⁹ This was a monumental task, and the Military Affairs Division was intimately involved in the process, checking “each of the source statutes, both those being restated and those they proposed to repeal as obsolete or for other reasons, and all of our office opinions and other sources that had interpreted them.”⁴⁰ It was while at the Pentagon, in September 1954, that Lieutenant Fulton was pro-

36. *Id.* at 64.

37. *Id.*

38. *Id.* at 66.

39. *Id.*

40. *Id.*

moted to captain.⁴¹ His second child, William Sherwin Fulton III,⁴² was born at Fort Belvoir, Virginia, six months earlier.

C. The Judge Advocate General's School

Hoping for an assignment to Germany, the Fultons learned in the summer of 1956 that The Judge Advocate General's School in Charlottesville, Virginia, needed Captain Fulton to fill a position in the Military Affairs Division (what is now the Department of Administrative and Civil Law) of the Academic Department. Shortly after the birth of their third child, Michelle Lynne Fulton, in November 1956, the Fultons moved to Charlottesville for Captain Fulton's first of two assignments to the JAG School.

As an instructor in the Military Affairs Division, Captain Fulton taught the 5th through the 9th Advanced Classes, and the 25th through the 34th Basic Classes. Having attended neither, he found that he had to work "doubly hard."⁴³ The School had recently moved from Fort Myer, Virginia, to the main grounds of the University of Virginia.⁴⁴ There, Captain Fulton enjoyed the leadership of two commandants, Colonel Nathaniel Rieger and Colonel Gordon O'Brien, as well as that of the Director of the

41. He had accepted his RA commission in the JAG Corps in May 1954. *Id.* at 71.

42. W. Sherwin Fulton III enlisted in the Regular Army in 1972 as an armor crewman. He eventually transferred to the JAG Corps as a legal specialist. He was discharged after twenty-two years in 1994, having served throughout the United States, Germany, Korea, and in Desert Storm. He last served in the Virginia Army National Guard for one year in the JAG Office of the National Guard Bureau (Pentagon), retiring as an E-7. He is presently the civilian paralegal for the Army Review Boards Agency in Arlington, Virginia. *Id.* at 30; Fulton Interviews, *supra* note 1.

43. Oral History, *supra* note 1, at 74.

44. The School was first established in temporary quarters at the National University Law School in Washington, D.C., in February 1942. Later that year, it moved to the University of Michigan at Ann Arbor, Michigan, where it remained until 1946, when the School was closed during the general demobilization following World War II. It reopened in 1950 at Fort Myer, Virginia, then moved to the main grounds of the University of Virginia in 1951. It moved to its current location on the North Grounds of the University in 1975. Major Percival D. Park, *The Army Judge Advocate General's Corps, 1975-1982*, 96 MIL. L. REV. 5, 54 (1982); see also The Judge Advocate General's School, *History of the Judge Advocate General's Corps*, at <http://www.jagcnet.army.mil/JAGCNETInternet/Homepages/AC/TJAGSAWeb.nsf/bf25ab0f4> (last visited Mar. 13, 2003).

Academic Department, Colonel Waldemar Solf, for whom the School's International Law Chair is named.⁴⁵

While an instructor, because “[i]t was just something that needed to be done for the sake of uniformity,”⁴⁶ Captain Fulton prepared the first *Military Citation* manual in 1959, now in its seventh edition, for use in the thesis program. It was also during this time that the JAG School began conducting training for judge advocate reservists, as well as on-site training for the newly formed Judge Advocate General's Service Organizations (JAGSO), the predecessors to the Legal Service Organizations (LSO).⁴⁷ Captain Fulton was actively involved in the new training programs for Reserve and National Guard judge advocates and would later reflect that “one of the real satisfactions of my Regular Army career has been my contact with and service to our Reserve Components.”⁴⁸

In June 1961, Captain Fulton was promoted, below the zone, to major, and was selected to attend the resident Command and General Staff College (CGSC) at Fort Leavenworth, Kansas. Although he found himself “ill-prepared for the C&GSC course,”⁴⁹ he graduated the following summer and learned that his next assignment was to the Military Assistance Advisory Group (MAAG), Taiwan, Republic of China.

C. Taiwan

The Fultons “arrived in Taipei in the midst of a typhoon and cholera epidemic.”⁵⁰ Having attended a pre-assignment course at the Department of Defense Military Assistance Institute in Washington, D.C., before their

45. A brief military biography of Colonel Solf appears in Park, *supra* note 44, at 60.

46. Oral History, *supra* note 1, at 76.

47. For a discussion of the creation, organization, and training of JAGSOs and their transition into the present day LSOs, see Park, *supra* note 44, at 44-49, and Thomas J. Feeney & Captain Margaret L. Murphy, *The Army Judge Advocate General's Corps, 1982-1987*, 122 MIL. L. REV. 1, 53-56 (1988).

48. Oral History, *supra* note 1, at 79.

49. *Id.* at 82. After taking his “inventory examination,” the academic director at CGSC informed Major Fulton that he had “scored in the bottom fifth of this class[,] . . . and we are concerned that you might not graduate.” *Id.* at 82. In response, Major Fulton “went to work, studied hard, and graduated in the upper fifth (albeit at the bottom of it!)” *Id.* at 82-83.

50. *Id.* at 85.

arrival, Major Fulton faced his first Chinese diplomacy challenge within days of arriving in Taiwan:

In Honolulu we had purchased Mu-Mus for Marjorie and the girls, and colorful shirts for Sherwin and me. One day, late in our stay in the hotel, our youngest daughter's Mu-Mu disappeared. The only person who could have possibly taken it was one of the maids. However, instead of accusing the maid directly or through her employer, I simply let it be known to the management that the Mu-Mu was missing, and that the little girl was very unhappy. Soon, it showed up, back in the suitcase from which it had been removed.⁵¹

During his two-year tour in Taiwan, Major Fulton performed a wide range of duties, from providing legal services to the commander and personnel of the MAAG, to determining how military assistance funds might best be used, and later in his tour, providing legal advice to the American Embassy in connection with on-going negotiations for a status-of-forces agreement that would cover U.S. forces on Taiwan. Because the MAAG personnel enjoyed diplomatic immunity, the judge advocates in Taiwan were also involved in mediating disputes between local nationals and members of the MAAG, "ranging from landlord-tenant problems to paternity matters."⁵² Major Fulton viewed these, as well as his assorted foreign claims and legal assistance responsibilities, as opportunities to "help our image with the Chinese" and to "foster local understanding of our legal system."⁵³

D. Back to the Pentagon

The Fultons departed Taiwan in August 1964, headed back to Washington, D.C., where Major Fulton was to be Chief of Career Management (the predecessor to the Personnel, Plans, and Training Office (PP&TO)). Due to unexpected personnel changes, he became instead the Assistant Executive for Reserve Affairs, responsible for "such Reserve personnel matters as processing applications for appointment without concurrent active duty, branch transfers, and grants of constructive military education credit for promotion purposes."⁵⁴ Given his prior experience with the

51. *Id.*

52. *Id.* at 92.

53. *Id.* at 93.

Reserve Component in his first Pentagon and JAG School tours, he welcomed the opportunity to work with reserve judge advocates again. His new duties brought him into regular contact with the Army Staff, where he served as a liaison with the Chief of Reserve Components (CORC), “a then new (and no longer existing) position with oversight over the Chief, Army Reserve (CAR), and Chief, National Guard Bureau.”⁵⁵

Major Fulton’s duties afforded him unique opportunities to assist in the future role of reserve judge advocates, although reservists were faced with growing challenges during these years. At about this time, the newly established Chief of Reserve Components and the Deputy Chief of Staff for Personnel (DCSPER) made completion of CGSC a requirement for promotion to colonel in all branches, including judge advocates, when previously it had been required only for promotion to brigadier general, “and even that had been waived for [the] specialized branches.”⁵⁶ Shortly thereafter, Secretary of Defense McNamara “directed a screening of the Ready Reserve to remove Federal employees and others who would not be available in the event of mobilization.”⁵⁷ Major Fulton could only watch as the JAG Corps Reserve lost valuable members to these manning changes, and as at least two judge advocate reserve colonels, who had been selected to fill reserve general officer positions, lost that opportunity as a result of the changes in the CGSC completion requirements. He later observed, however, that “imposing the C&GSC requirement . . . put us in step with the rest of the Army. . . . The more you seek exceptions, the more you endanger closer rapport between lawyer and client.”⁵⁸

By the summer of 1967, “[t]hings were heating up in Vietnam, and my natural assumption was that I might be going there next.”⁵⁹ Having been promoted to lieutenant colonel in July 1965, his services were needed in-house, and in August 1967, Lieutenant Colonel Fulton was appointed to a board convened by the Army Chief of Staff to determine “whether there was discrimination in the recruiting process or something about Reserve

54. *Id.* at 95.

55. *Id.*

56. *Id.* at 97.

57. *Id.* at 98.

58. *Id.*

59. *Id.*

service that made it unattractive to black soldiers, especially those leaving active duty.”⁶⁰

Known as the “Williams Board,” as it was chaired by Brigadier General Robert M. Williams, then the Assistant Judge Advocate General for Military Law, the board was convened as a result of disproportionately few black soldiers in the Reserve Component at a time when racial tensions were increasing in the United States. Although Lieutenant Colonel Fulton was initially only “the administrative officer of the board,” he “did such a good job of participating in the analytical and judgmental deliberations of the board” that he “was made a voting member for the second and final phase, and became a signatory to its report” in October 1967.⁶¹ Entitled “Participation of Negroes in the Reserve Components of the Army,” the report included “some 53 recommendations,” and for Lieutenant Colonel Fulton, the task of compiling its data “was a full-time job. . . . I did not see my children for a month although I slept in the same house with them.”⁶²

E. A Long-Awaited Assignment to Germany

Following a brief reassignment to the Military Affairs Division as its Personnel Law Branch Chief, Lieutenant Colonel Fulton learned in early 1968 that his next duty assignment would be at the U.S. Army Europe (USAREUR) headquarters in Heidelberg, Germany, as the Chief of Military Affairs/Legal Assistance Division.⁶³

Returning to the field for the first time in over ten years, Lieutenant Colonel Fulton’s assignment to Germany was one of the most challenging of his military career, but one in which he left his mark for years to come. Working closely with the newly created Armed Forces Disciplinary Control Board, Lieutenant Colonel Fulton actively pursued businesses he suspected were engaging in questionable business practices. He wrote opinions and memoranda on such matters as “the legal precautions to be taken in a [United States Dependent Schools, European Area] student work-study program;” and most notably, he conducted an “intense study of

60. *Id.* at 99.

61. *Id.*

62. *Id.*

63. Colonel Fulton had long anticipated a tour in Vietnam; in 1966, he attended his first and only course at the JAG School, entitled “Law in Vietnam.” When he returned to the United States after his tour in Germany, he reminded his assignments officer that he was “ready, willing, and able to go to Vietnam.” *Id.* at 98, 110.

servicemen's automobile insurance rates in Europe" and developed "comprehensive statistics on accident experiences, driving risks, and essential factors used as insurance rate premium criteria."⁶⁴ As a result of his insurance study, "insurers realized that the Commander-in-Chief [was] interested in providing the individual serviceman the best possible automobile insurance protection at the lowest non-discriminatory rate."⁶⁵

While Colonel Fulton would later credit the resulting changes in overseas insurance practices to his successor, Lieutenant Colonel Darrell Peck, it was Lieutenant Colonel Fulton's exhaustive study that laid the early groundwork for the overseas insurance policies that soldiers enjoy today. After Lieutenant Colonel Fulton had served just one year in Heidelberg, Colonel George S. Prugh, then the USAREUR Judge Advocate, observed that Fulton's "attribute for rendering experienced, learned, and tactful advice to other staff officers" and "imaginative, resourceful, and intensely personal devotion to duty"⁶⁶ resulted in significant quality-of-life improvements for soldiers assigned to Germany in the late 1960s.

In June 1969, having been selected for promotion to colonel from below the zone, Lieutenant Colonel Fulton became the Staff Judge Advocate for V Corps, in Frankfurt, Germany.⁶⁷ In light of the recent enactment of the Military Justice Act of 1968, this was a difficult time to be an SJA. In addition to civil unrest and an increase in on-post violence, "[t]his was before the days of area jurisdiction in USAREUR . . . [, and] we were phasing in the Military Justice Act of 1968. Now, we were having judge advocates on both sides in all special courts-martial (and some commanders were beginning to wonder what the Army was coming to)."⁶⁸ Many commanders felt threatened by the changes to the military justice system and believed that lawyers were taking their strongest disciplinary tools away from them.⁶⁹ Colonel Fulton, however, welcomed these challenges and relished the opportunity "to conduct a sort of individualized [Senior Officer Legal Orientation] course" for each of his "some 33 battalion commanders" with special court-martial convening authority.⁷⁰ He similarly enjoyed his unique relationship with Lieutenant General Claire E. Hutchin,

64. U.S. Dep't of Army, Form 638, Recommendation for Award (1 May 1960) Fulton, William S., Jr. (15 May 1969) (Colonel George S. Prugh's narrative description of achievements) (on file with Colonel Fulton).

65. *Id.*

66. *Id.*

67. His Commanding General, Lieutenant General Hutchin, promoted him to Colonel in December 1969. Oral History, *supra* note 1, at 106. V Corps Headquarters is now located in Heidelberg, Germany.

the V Corps Commander, who often called Colonel Fulton to accompany him somewhere on short notice, not “necessarily [for] legal business at all, but [because] he wanted me along.”⁷¹

F. Army War College

Colonel Fulton’s SJA tenure was cut short by his selection to attend the Army War College at Carlisle Barracks, Pennsylvania, “thereby ending what I had hoped would be at least two full years at V Corps.”⁷² With his assignment to the War College in the fall of 1970, Colonel Fulton found that many of the challenges he faced in the administration of military justice in V Corps were present all over the Army, as “[c]ommanders were still concerned about ‘losing control’ of military justice.”⁷³ Again he found himself amidst former and future line commanders who were distrustful of the increased role of lawyers in the military justice system and

68. *Id.* at 104. The Military Justice Act of 1968 brought monumental changes to the military justice system. As noted by Brigadier General John S. Cooke in his comments at the 1999 Judge Advocate General’s School’s Worldwide Continuing Legal Education Program on 8 October 1999,

the Act made the boards of review ‘courts’ of review and gave them powers to act like true appellate courts. It changed the name of the law officer to military judge and extended more judicial authority to the position. It provided for military judges to preside in special as well as general courts-martial. It provided for trial by military judge alone on request by the accused. And it provided for the Article 39(a) sessions at which the judge could hear and decide issues outside the presence of the members. Finally, it required that all judges be assigned and directly responsible to The Judge Advocate General or a designee. Thus, the Act provided the framework for judicial authority and independence that we take for granted today.

Brigadier General (Ret.) John S. Cooke, *Military Justice and the Uniform Code of Military Justice*, ARMY LAW., Mar. 2000, at 1.

69. Oral History, *supra* note 1, at 105. In Colonel Fulton’s experience, commanders seemed particularly concerned about the SJA’s involvement in pretrial confinement, a matter that had largely been left in the hands of commanders before implementation of the Military Justice Act of 1968. *Id.*; Fulton Interviews, *supra* note 1.

70. Oral History, *supra* note 1, at 104.

71. *Id.* at 105.

72. *Id.* at 106.

73. *Id.* at 109.

who viewed him as an appropriate sounding board for their growing concerns.

During this time, legislation was pending before Congress concerning removal of courts-martial from the purview of the commander, and

while [a classmate who later became a general officer] was bugging me about the evils of the Military Justice Act of 1969, I was satisfying the College's writing requirement with a research paper asserting that, contrary to the proposed [legislation], commanders still should be the ones to determine who should be tried, by what level of court, and, when conviction and sentencing resulted, should determine what part of the sentence to approve.⁷⁴

That paper, entitled "Command Authority in Selected Aspects of the Court-Martial Process," was later submitted by the Army War College to the Department of Defense for its consideration.

In early 1971, Colonel Fulton learned that following his graduation at the Army War College, he would return to Charlottesville, at the request of the Commandant of the JAG School, Colonel John Jay Douglass, to be the Deputy Commandant.

G. Return to the JAG School

When Colonel Fulton reported to the JAG School in June 1971, he learned that his new position included duties both as the Deputy Commandant and as the Director of the Academic Department, as these positions had been merged. While at the War College, Colonel Fulton had been confronted with his classmates' displeasure "with the recent changes in the military justice system."⁷⁵ He observed that they had become "suspicious, perhaps, of military lawyers and their role in the system, finding the results less predictable and more frequently unsatisfactory from a commander's point of view."⁷⁶ General Prugh, then The Judge Advocate General, was aware of this "Crisis in Credibility" and "had to do something about it. Colonel Douglass and the School had the assets to do it."⁷⁷ In

74. *Id.*

75. *Id.* at 112.

76. *Id.*

an effort that violated the ordinarily sacrosanct starting date for the advanced course, General Prugh directed that Colonels Douglass and Fulton alter the course of instruction by “put[ting] teams of faculty and Advanced Course students to work writing three Department of the Army pamphlets . . . designed to assist in the orientation, understanding, and administration of military justice.”⁷⁸

They simultaneously launched the Senior Officers’ Legal Orientation (SOLO) Course, a program of instruction designed to prepare incoming commanders for legal aspects of command. Their greatest coup toward this end occurred when Colonel Douglass

worked what I regarded as a miracle. One day, we climbed into a helicopter[,] . . . flew up to the Army War College, and talked the Commandant into letting us teach that course on his platform to his students! I know of no service school that, other than an occasional selectively invited guest speaker, cares to have anyone else come and teach their students. Being able to intrude upon the Army War College curriculum was nothing short of miraculous.⁷⁹

For the next two years, Colonel Fulton sent instructors to the Army War College to give the SOLO course, while also conducting the SOLO course. The GOLO (general officer legal orientation) course followed in later years.

In another of his self-initiated projects, Colonel Fulton “rework[ed] the entire Advanced Course curriculum,”⁸⁰ resulting most notably in the availability of in-house electives to the Advanced Course students. Before Colonel Fulton’s arrival, Advanced Course students were permitted to take electives at the University of Virginia to fulfill the Advanced Course curriculum requirements, but the students were required to pay for these electives themselves, or use some of their GI Bill educational entitlement. Colonel Fulton’s “proposed curriculum re-instituted in-house electives,”⁸¹

77. *Id.*

78. *Id.* These pamphlets were entitled *Deskbook for Special Court-Martial Convening Authorities*, *Legal Guide for Commanders*, and *Lessons in Military Law*. *Id.*

79. *Id.* at 113.

80. *Id.* at 110.

81. *Id.* at 111.

a change that was immediately implemented and remains integral to the present graduate course curriculum.

In February 1974, Major General Prugh, then The Judge Advocate General of the Army, selected Colonel Fulton to be the ninth Commandant of The Judge Advocate General's School.⁸² At this time, the School had recently obtained property on the North Grounds of the University of Virginia and was in the process of "completing, furnishing, and moving to the new building that [Colonel Douglass]'s planning had caused to be approved and constructed."⁸³ Colonel Fulton found that his oversight of the new building "occupied so much of my time that I had very little influence on the faculty and the teaching side of the house."⁸⁴ The School moved to its current location in 1975.

Colonel Fulton later described himself as "the Commandant who lost both the welfare fund and the leased housing."⁸⁵ Before his return in 1971, the JAG School ran a bookstore, the profits from which funded the Commandant's Welfare Fund, which was often used for the entertainment of visitors. After "the Army decided to eliminate the book departments . . . [.] we provided for a branch of the Fort Lee [Post Exchange],"⁸⁶ but, of course, its profits no longer supported a welfare fund. Similarly, the School had, for some time, leased the

"Georgetown Apartments"—those buildings located on the left as one comes up the hill from Emmet Street towards the UVA School of Law and our JAG School. However, just as we were moving the School to a much more convenient location in terms of that housing, we learned that criteria for leased housing changed and [we] could no longer lease it.⁸⁷

Colonel Fulton's actual contributions, however, were recognized by Major General Lawrence H. Williams, then The Assistant Judge Advocate General, who noted in 1976 that "[t]he JAG School has been described by civilian lawyers and educators as the finest center for continuing legal edu-

82. Colonel Fulton was the ninth Commandant of the JAG School in Charlottesville. He was actually the eleventh Commandant when including the JAG Schools in Washington, D.C., Ann Arbor, and Fort Myer. *Id.* at 114; *see also supra* note 44.

83. Oral History, *supra* note 1, at 114.

84. *Id.*

85. *Id.* at 127.

86. *Id.* at 126.

87. *Id.* at 127.

cation in the United States. [Colonel Fulton] is largely responsible for that praise.”⁸⁸ This observation was primarily the result of Colonel Fulton’s work in response to the newly introduced mandatory continuing education movement among states and the American Bar Association (ABA), which “requir[ed] a specified amount of continuing legal education annually as a condition of maintaining one’s license to practice law.”⁸⁹

Colonel Fulton’s home state of Iowa was among those considering imposing continuing legal education (CLE) requirements, and Colonel Fulton grew concerned that judge advocates would be unable to maintain their state bar membership if the state refused to recognize courses taught at the JAG School as meeting CLE requirements. After attending several meetings sponsored by the ABA to study this idea, Colonel Fulton reported on the matter to the 1975 JAG Conference and through an article in the November 1975 edition of the *Army Lawyer*; “[m]y objective, of course, was to assure that the JAG School’s courses would be credited in satisfaction of any requirements that were imposed even though our courses were not conducted in or by the state of one’s licensure.”⁹⁰ Colonel Fulton had joined the ABA’s Section of Legal Education and Admissions to the Bar upon first returning to the School and remained a member for several years after leaving the School “because I wanted to be a voting member in case any issue arose as to the School’s accreditation.”⁹¹ In light of the JAG School’s growing curriculum of short courses and continuing accreditation status with the ABA,⁹² his efforts were clearly successful.

Colonel Fulton would never accept praise for these achievements without acknowledging the exceptional faculty that supported him during his Commandant years. Led by his successor in Heidelberg, Colonel Darrell Peck, the faculty included five members who later became general officers—MG Hugh R. Overholt, MG Kenneth D. Gray, BG Dulaney L. O’Roark, Jr., BG Scott Magers, and BG John S. Cooke; two others who

88. U.S. Dep’t of Army, Form 67-7, Officer Evaluation Report (1 Jan. 1973) Fulton, William S., Jr., 750701 thru 760630 (comments of rater).

89. Oral History, *supra* note 1, at 130.

90. *Id.*

91. *Id.* at 117.

92. In addition to recognizing the JAG School as a source of CLE, the ABA has, since December 1987, recognized the JAG School’s graduate course as meeting the requirements necessary to confer the Master of Laws (LL.M.) degree. Codified at 10 U.S.C. § 4315 (2000), the Commandant of the JAG School may, upon the recommendation of the faculty, confer the Master of Laws degree to graduates who have fulfilled the requirements of that degree. Feeney & Murphy, *supra* note 47, at 31-32.

later became School Commandants (as did BG O’Roark, briefly); and another who was later the Academic Director (as was BG Cooke). Colonel Fulton later observed that “[no] wonder Darrell Peck didn’t want me messing around with his Academic Department!”⁹³

Bill Fulton’s almost accidental entry into the JAG Corps resulted in many of the changes that make the JAG Corps what it is today. But for his unfettered dedication to Army service that compelled him to accept a battlefield commission, continue on to Fort Riley as an infantry officer, and eventually transfer to the JAG Corps, it is certainly open to debate whether The Judge Advocate General’s School would enjoy the prestige and ABA accreditation it enjoys today, whether overseas military insurance practices would protect soldiers as they do today, and whether the SOLO, GOLO, and graduate courses would be the successes that they are today. His untiring performance of whatever duty was before him, combined with his unyielding regard for others, inspired his colleagues and subordinates alike to emulate his passion for service, and in doing so, demonstrated the power of personal example. While a patriot’s success is often defined by the feats he accomplishes, his greatest legacy is often that which cannot be defined—in Bill Fulton’s case, it is the future of the JAG Corps.

IV. 1976—1997: Dedication to the Corps: A Patriot’s Legacy

*The only irreplaceable man I know.*⁹⁴

93. Oral History, *supra* note 1, at 128. In making this observation, COL Fulton also noted that

several [others] have become distinguished legal educators and well-known authors as well (Jack Costello, Fran Gilligan, Paul Gianelli, Fred Green, Nancy Hunter, Ed Imwinkelreid, Fred Lederer, Don Zillman). Some, after retirement, also became outstanding as government civilians (Jack Lane, Jim McCune, Darell Peck, and our Marine Corps faculty member, Hays Parks, who is now [a recognized] Law of War expert in the OTJAG International Law Division).

Id.

94. U.S. Dep’t of Army, Form 7222, Senior System Civilian Evaluation Report (May 1993), Fulton, William S., Jr., 940701 through 950331 (comments of the rater and senior rater, Brigadier General Thomas R. Cuthbert) (on file with Colonel Fulton).

A. Appellate Judge, The Army Court of Military Review

In July 1976, the Fultons returned to the Washington, D.C. area, where Colonel Fulton joined the Army Court of Military Review.⁹⁵ He would eventually spend more time there than many judge advocates spend on active duty—a total of twenty-one years—seven as an active duty appellate judge, and fourteen as the civilian Clerk of Court.

Having been away from military justice since his SJA time in Frankfurt, Colonel Fulton's first concern was his own re-education in criminal law, spending his first months on the Court reading everything he could find concerning military justice—from appellate cases to ABA materials. Once on the bench, Colonel Fulton was involved in a variety of cases ranging from “the constitutionality of regulations restricting social contacts between a permanent cadre and their trainees”⁹⁶ to the constitutionality of the military death penalty sentencing procedures.⁹⁷ During these years, the Army court was struggling to maintain its reputation as a “true appellate body in an improved system of military justice,” as the Court of Military Appeals⁹⁸ sought to ensure that the military justice system was a system of justice, and not merely a commanders' disciplinary tool.

Chief Judge Fletcher, of the Court of Military Appeals (CMA), was especially concerned with the CMA's oversight of the military justice system and the protection of the rights of soldiers under the UCMJ. Many of the decisions of the CMA were viewed as controversial and were often contrary to the prior decisions of the Army court.⁹⁹ Colonel Fulton later

95. As part of the Military Justice Act of 1968, the Army Court of Military Review replaced the numerous boards of review that served as court-martial reviewing authorities since their creation in 1920. In 1994, the Court was renamed the Army Court of Criminal Appeals. U.S. Court of Appeals for the Armed Forces, *Establishment & History of the Court* [hereinafter CAAF Web Site], at <http://www.armfor.uscourts.gov> (last visited Mar. 25, 2003).

96. Oral History, *supra* note 1, at 134 (referring to *United States v. Hoard*, 13 M.J. 563 (A.C.M.R. 1981)).

97. *Id.* at 137 (referring to *United States v. Matthews*, 13 M.J. 501 (A.C.M.R. 1982), *rev'd*, 16 M.J. 354 (C.M.A. 1983)).

98. The Court of Military Appeals was created in 1950 with the enactment of the Uniform Code of Military Justice. Established under Article I of the Constitution, the Court is comprised of five civilian members who are appointed by the President, confirmed by the Senate, and serve a term of fifteen years. During Chief Judge Fletcher's time on the Court, it consisted of only three members, as it did until 1990 when Congress increased its membership to five. In 1994, the Court was renamed the United States Court of Appeals for the Armed Forces. CAAF Web Site, *supra* note 95.

noted that “[t]he Fletcher court used to complain that some of our opinions were more like briefs than judicial opinions. Perhaps so, but Chief Judge Fletcher and his court needed briefs.”¹⁰⁰ During the early years of Colonel Fulton’s time on the Army court, it was very busy considering issues of first impression, some of which the Court feared would not survive the CMA’s review. As a result, the judges often spent a great deal of time explaining their decisions and rationales, sometimes making their “opinions” read like “briefs,” in an effort to educate the CMA about the military justice system and its practical application in the field Army.

While on the Court, Colonel Fulton was detailed to the West Point Study Group, a compilation of three committees formed at the direction of the Army Chief of Staff in January 1977 in the aftermath of the West Point cheating scandal in 1976. As the “Law/Legal Advisor” to the Academic Committee, Colonel Fulton’s role was to “study the law curriculum and make recommendations regarding the legal instruction given to cadets.”¹⁰¹ Colonel Fulton later observed that “what was really needed was to instill in the West Point staff and faculty an appreciation for the responsibility of lawyers in the Army.”¹⁰² In the disciplinary proceedings that followed the scandal, judge advocates—including some from the law faculty—became involved as defense counsel. “The specter of faculty members, or perhaps anyone, defending cadets accused of cheating apparently disturbed some of the other faculty.”¹⁰³ Included in Colonel Fulton’s report was his observation that “the then recent decision to establish a separate staff judge

99. From 1975 to 1978, in what some call the “COMA revolution,” the Court of Military Appeals

issued a number of controversial and sometimes criticized decisions that limited the jurisdiction of courts-martial, limited the powers of commanders, expanded individual rights, extended the court’s own authority, and broadened the authority and responsibility of the military judge. Some of the more problematic of the court’s initiatives were later reversed, either by Congress or by the court itself.

Cooke, supra note 68, at 4. A brief biography of Chief Judge Fletcher appears in Park, *supra* note 44, at 66.

100. Oral History, *supra* note 1, at 139.

101. *Id.* at 141.

102. *Id.*

103. *Id.*

advocate office at West Point should eliminate that problem in the unlikely event (we hope) of a recurrence.”¹⁰⁴

Having been commissioned in August 1951, Colonel Fulton’s retirement was to become mandatory on 30 September 1981. To remain on the Court, he “asked to be recalled to continue serving on the court, and, upon retirement, was recalled to serve another three years, until September 1984.”¹⁰⁵

That he earned the absolute confidence and respect of his superiors is evident in the evaluations Colonel Fulton received while serving on the Court. Described by one general officer as “one of the finest officers I have known,”¹⁰⁶ and by another as “one of the most able lawyers and most learned scholars in the JAGC,”¹⁰⁷ perhaps his most laudatory comments as an appellate judge came from Major General Hugh R. Overholt, The Assistant Judge Advocate General at the time of Colonel Fulton’s retirement from active duty in 1983, who said of Colonel Fulton: “A scholar, deeply dedicated soldier and judge advocate, Colonel Bill Fulton has been the quintessence of an appellate military judge By any objective or subjective standard, Colonel Fulton has been as outstanding a soldier and jurist as the Army has been privileged to have.”¹⁰⁸

B. Clerk of Court, Army Court of Criminal Appeals

Colonel Fulton’s recall was to end in September 1984, and so he “had begun to ponder what I might do when I . . . reverted to retired status.”¹⁰⁹ He had attended a workshop on appellate court administration in July 1982 and became interested in judicial administration. When the Clerk of Court position opened in 1983, Colonel Fulton saw a unique opportunity to remain involved in the administration of the Army court after leaving

104. *Id.*

105. *Id.* at 132.

106. U.S. Dep’t of Army, Form 67-7, Officer Evaluation Report (1 Jan. 1973), Fulton, William Sherwin, Jr., 770701 thru 780630 (comments of Major General Lawrence H. Williams, rater) (on file with Colonel Fulton).

107. U.S. Dep’t of Army, Form 67-7, Officer Evaluation Report (1 Jan. 1973), Fulton, William S., Jr., 780630 thru 790629 (comments of Major General Wilton B. Persons, Jr., senior rater) (on file with Colonel Fulton).

108. U.S. Dep’t of Army, Form 67-8, Officer Evaluation Report (1 Sept. 1979), Fulton, William S., Jr., 820801 thru 830321 (rater comments).

109. Oral History, *supra* note 1, at 133.

active duty. He applied for and received the position, and reported to work as the Clerk, U.S. Army Judiciary, on 3 April 1983, while on terminal leave status.¹¹⁰

“Never content with a business as usual approach,”¹¹¹ Colonel Fulton approached his new job with the same drive, initiative, and personal commitment that he brought to every duty assignment while on active duty, and his contributions far exceeded his job description. As Clerk of Court, Colonel Fulton wore two hats—one, as judicial advisor to the Chief Judge; and another, as clerk of court. In the latter capacity, he was responsible for the screening and processing of records of trial in preparation for appellate review, subsequent processing after appellate review, and final disposition and retirement of the record. In the former capacity, he provided advice to the Chief Judge¹¹² and took actions in the name of The Judge Advocate General, such as

directing a staff judge advocate of a general court-martial jurisdiction to take corrective action when a record of trial had been forwarded to the court incomplete or in improper condition, or directing the conduct of post-trial proceedings, such as a rehearing directed by our Court, or [further proceedings authorized by] the U.S. Court of Appeals for the Armed Forces.¹¹³

110. At that time, the Clerk of Court was a GM-12 position, and the now-repealed Dual Compensation Act dramatically reduced Colonel Fulton’s retired pay as a result of his federal civilian service. As a result, Colonel Fulton’s acceptance of this position was at extreme financial sacrifice. The position was eventually upgraded to GM-14, and the Dual Compensation Act was repealed in 2000, three years after Colonel Fulton’s retirement from federal service. Addendum, *supra* note 1, at 32. In a later interview, Colonel Fulton remarked that he accepted the position “because no one else would hire me.” Fulton Interviews, *supra* note 1.

111. U.S. Dep’t of Army, Form 4940-1-R, Merit Pay System Performance Appraisal (1 Oct. 1980), Fulton, William S., Jr. (comments of Brigadier General Donald Wayne Hansen, rating supervisor).

112. The Chief Judge, a general officer in the JAG Corps, wore three hats. As the Chief Judge of the Army Court of Military Review (now called the Army Court of Criminal Appeals, *see supra* note 95), he supervised all of the appellate judges and sat on cases, as he desired. As the Chief, U.S. Judiciary, he oversaw the Trial Judiciary, the Examination and New Trials Division, and the Office of the Clerk of Court. As the Commander of the U.S. Army Legal Services Agency (USALSA), he managed the administrative and logistical support to the many litigation and service offices such as the Government and Defense Appellate Divisions, the Litigation Division, and later the Trial Defense Service. Colonel Fulton’s role as “judicial advisor” to the Chief Judge concerned not the cases before the Army court, but primarily the myriad of administrative and supervisory duties of the Chief Judge. Addendum, *supra* note 1, at 2.

One of Colonel Fulton's first significant duties in his capacity as "judicial advisor" was to advise Major General Overholt, then The Judge Advocate General of the Army, of the import of the Model Rules of Professional Conduct, which the ABA House of Delegates had adopted in 1983. Having served as Chairman of the Judge Advocate General's Professional Responsibility Advisory Committee from 1979 to 1989, and having remained a member of the board for many years thereafter, Colonel Fulton was acquainted with many of the individuals involved in the drafting of the Model Rules, including Mr. Robert Kutak, who eventually became the Chair of the Commission on Evaluation of Professional Standards known as the "Kutak Commission." In large part due to the learned advice that Colonel Fulton shared through his involvement in the ABA, "[i]n the end, the Kutak Commission modified the commentary to some rules to resolve our concerns and we felt certain that we had correctly interpreted the remaining rules to permit our existing practices."¹¹⁴

In his role as court administrator, Colonel Fulton greatly expanded the scope of his office's oversight, first by maintaining regular contact with the Corps. He published a short history of the Court in the December 1985 and October 1991 editions of the *Army Lawyer*; and under the heading "Clerk of Court Notes," he began using the *Army Lawyer* to send guidance to the field concerning commonly occurring problems and errors (one article being entitled, "Boxes Without Topses," referring to court-martial records received improperly wrapped).¹¹⁵ He published guidance "on such matters as the procedures and timing for requesting witnesses from CONUS to appear at trial overseas, waiting appellate review or withdrawing an appeal, and filing petitions for extraordinary relief under the All Writs Act,"¹¹⁶ and he occasionally participated in the Annual JAG Conference. Perhaps his most widely disseminated product was "The Clerk of Court's Handbook for Post-Trial Administrative Processing of General Courts-Martial and BCD Special Courts-Martial."¹¹⁷ Completed in late 1996, this comprehensive handbook set forth guidance concerning every step of the appellate process from authentication of the record of trial to final action, and it covered every possible occurrence in between and after, including death of the accused, waiver of appellate review, petition for new trial, certificates of correction, service of appellate decisions on the accused, and

113. Addendum, *supra* note 1, at 1.

114. *Id.* at 29.

115. *Id.* at 26.

116. *Id.* at 27.

117. *Id.* at 34.

issuing supplementary promulgating orders. "It was [his] final educational effort before retirement,"¹¹⁸ and it remains in use today.

At the same time that he was disseminating advice and guidance to the field, Colonel Fulton was intimately involved in the formulation of the Court's procedural rules. He updated the Court's Internal Operating Procedures, represented the Court on the joint services committee that formulated the 1992 edition of "Courts of Military Review Rules of Practice and Procedure," and again represented the Court in the formulation of the Joint Rules of Practice and Procedure of the Courts of Criminal Appeals that took effect in 1996.¹¹⁹ He was simultaneously involved in the Court of Military Appeals' Rules Advisory Committee, having been appointed to the committee in late 1987 and serving successive three-year terms until September 2001.

Also as part of his administrative duties, Colonel Fulton was actively involved in building the Court's automated database, a system known as the Army Court-Martial Management Information System (ACMIS). Together with his deputy, Colonel Fulton "worked far into many evenings identifying fields of information that should be used to record the performance of our military justice system."¹²⁰ Through his meticulous design of the entry fields, Colonel Fulton's development of ACMIS allowed the Court to later respond to outside inquiries regarding the numbers and types of courts-martial during combat deployments, information regarding courts-martial for sexual offenses in the aftermath of the sexual misconduct cases at Aberdeen Proving Ground, and "voluminous detailed information in response to Congressional inquiries probing the frequency of sex offenses against female soldiers."¹²¹

Concerned with the dearth of continuing education for appellate military judges, Colonel Fulton published information papers for sitting appellate judges, including one entitled "Suggested Readings for New Appellate Judges: A Commentary and Selected Bibliography," and another entitled "Introduction to the Record of Trial: An Orientation for New Appellate Judges."¹²² After attending a National Conference on Judicial Education in January 1987, he proposed an orientation course for new appellate judges and "recommended that each judge attend at least

118. *Id.*

119. *Id.* at 19.

120. *Id.* at 14.

121. *Id.* at 15.

122. *Id.* at 17.

one of the ABA Appellate Judges Conference Seminars,”¹²³ in addition to attending the “All Services Appellate Military Judges Conferences,” an annual two-day seminar. While his recommendations were not then implemented, his efforts at improving judicial education were publicly recognized when, after his retirement from the Court in 1997, “the other services had voted unanimously (with the Army abstaining) to rename their annual educational conference the ‘William S. Fulton, Jr., Appellate Military Judges Conference.’”¹²⁴

C. Active Participant in Professional Organizations

One cannot discuss Colonel Fulton’s contributions to the JAG Corps without noting his consistently active involvement in professional organizations, ranging from the Judge Advocates Association to the National Conference of Appellate Court Clerks, a group in which he remains active even today. While initially viewing these organizations as a means of feeding his “inferiority complex”¹²⁵ by obtaining professional materials on a range of legal topics, Colonel Fulton later found them to be a means of furthering the goals of the JAG Corps and enriching his already broad range of experience. As then-Brigadier General Kenneth D. Gray noted in one of Colonel Fulton’s civilian evaluations,

[h]is many contacts outside this agency benefit [the United States Army Legal Services Agency] and the U.S. Army Court of Military Review in many ways. In this regard, he has contributed significantly to the enhancement and prestige of that court, and continues to be a worthy spokesperson and ambassador for the Chief Judge and Commander.¹²⁶

Colonel Fulton first became involved with the American Bar Association in 1957, having been selected to attend the annual meeting of the Junior Bar Conference (now the Young Lawyers Division) as a representative of the JAG Corps. Throughout his career, he was a member of various other sections, including the Section of Criminal Law, the Family Law Section, the International Law Section, the Government Contracts Section,

123. *Id.* at 25.

124. *Id.* at 38.

125. Oral History, *supra* note 1, at 117.

126. U.S. Dep’t of Army, Form 5398-R, Civilian Performance Rating (May 1986), Fulton, William S., Jr., from 1 July 1991 to 30 June 1992 (comments of supervisor) (on file with Colonel Fulton).

and the Appellate Judges Conference of the Judicial Administration Division. Colonel Fulton contributed significantly to the Judge Advocates Association and the Federal Bar Association, as well. In 1977, he became the first active duty officer to hold the position of President of the Judge Advocates Association, which he had joined in 1953.

D. Honorary Colonel of the Corps

In 1990, Major General William K. Suter, then Acting The Judge Advocate General, invited Colonel Fulton to lunch at the Pentagon. Having worked for General Suter five years earlier when General Suter was the Chief Judge, Colonel Fulton assumed that lunch was merely a get-together. Instead, Colonel Fulton learned that he had been nominated to become the next Honorary Colonel of the JAG Corps Regiment, succeeding the first Honorary Colonel, Major General Kenneth J. Hodson.¹²⁷

Unbeknownst to Colonel Fulton at that time, General Suter was largely responsible for Colonel Fulton's nomination. Describing him as "a man of principle and wisdom, low-key and never taking credit for his work, Bill Fulton always took care of his subordinates and his superiors; he did everything, and everyone respected him."¹²⁸ For his "great contributions all along the way, real and lasting contributions," General Suter saw Colonel Fulton as the obvious choice.¹²⁹

127. The JAG Corps became part of the U.S. Army Regimental System in July 1986. The Regiment has three honorary positions: the Honorary Colonel of the Corps, the Honorary Warrant Officer of the Corps, and the Honorary Sergeant Major of the Corps. They perform ceremonial duties, such as attending Corps functions and speaking about and to the Corps. Major General Kenneth J. Hodson was the first Honorary Colonel of the Corps, having served as The Judge Advocate General from 1967 until 1971. The Hodson Criminal Law Chair and the annual Hodson Criminal Law Lecture at the JAG School are named for him. Feeney & Murphy, *supra* note 47, at 8-9. U.S. DEP'T OF ARMY, REG. 600-82, THE U.S. ARMY REGIMENTAL SYSTEM (5 June 1990).

128. Fulton Interviews, *supra* note 1.

129. *Id.*

Overwhelmed and completely surprised by this request, Colonel Fulton accepted the nomination, and in November 1990, became the second Honorary Colonel of the Corps, a position he held until 1994.¹³⁰

V. Conclusion

*Few officers have the energy, interest, initiative, and imagination possessed by Colonel Fulton but only rarely does one officer use these characteristics so effectively. He has inspired his staff to new heights, not by driving but by leadership of the highest order. He has courage to face the hardest questions and press on. Colonel Fulton exemplifies total devotion to the job and the Army*¹³¹

William Sherwin Fulton, Junior, retired in May 1997, after fifty-four years of service to the United States. From his voluntary enlistment during World War II, through his request for recall to active duty in 1981, to his civilian employment with the Army Court of Criminal Appeals until 1997, Bill Fulton has always been about duty first. Whether pursuing affordable insurance for soldiers overseas to drafting internal rules for the appellate courts, be it at home in peacetime or during wartime abroad, he was wherever there was a job to be done. Interrupting his college education to enlist during World War II, willingly postponing a legal career to fight in the Korean War, foregoing his desire to command to better serve his nation as a judge advocate, and ultimately making the Army his life-long career by accepting a permanent commission and remaining in active federal service long past his retirement eligibility, Bill Fulton's life is the epitome of selfless service.

The JAG Corps is a better institution because of Bill Fulton. In addition to the many improvements to the Corps attributable to him, perhaps his greatest contribution was to personify that which cannot be defined in words, a strength of will and integrity that some might call heroism; a diligence and compassion that others might call mentorship. Regardless of the choice of words, what is clear is the lasting effect that one man's ser-

130. He was succeeded by his former supervisor and The Judge Advocate General, Major General Lawrence H. Williams; and then by Colonel (Retired) William P. Greene, Jr. Addendum, *supra* note 1, at 33.

131. U.S. Dep't of Army, Form 67-6, Officer Efficiency Report (1 Jan. 1986), Fulton, William S., Jr., 15 Jun 71 thru 14 Jun 72 (comments of Colonel John Jay Douglass, rater) (on file with Colonel Fulton).

vice had on his Corps, an effect that is still felt today among the many soldiers, officers, and civilians of The Judge Advocate General's Corps who were so profoundly touched by a patriot's heart.

*He stood, a soldier, to the last right end,
A perfect patriot and a noble friend,
But most a virtuous son.
All offices were done
By him, so ample, full, and round
In weight in measure, number, sound,
As, though his age imperfect might appear,
His life was of humanity the sphere.*¹³²

132. Ben Jonson (1572–1637) (British dramatist, poet), To the Immortal Memory and Friendship of That Noble Pair, Sir Lucius Cary and Sir Henry Morison (l. 45–52), <http://www.bartleby.com/66/77/31577.html>.