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## The Department of State

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1972 when President Nixon ordered the B52 raids halted on Christmas Eve Denton prayed the President would promptly renew them. He believed it to be the decisive moment of the war. Air defenses around Hanoi had been obliterated and the prison officers and guards were a thoroughly frightened enemy. They deferred to the senior officers among the prisoners and strove to portray themselves as good guys who should be safe from retaliation.

Denton strongly believes that American apathy and disunity lost the war for the allies and resulted in the betrayal of millions of southeast Asians. He bluntly claims that the allied defeat was due to the "most incredible and most dangerous string of miscalculations and blunders in our history." Hawk and dove historians will debate such conclusions for decades to come.

As prison conditions eased with the Americans allowed to visit between cells and exercise outdoors the tight discipline of the harsher years tended to weaken. Increased freedom led to arguments over card games with some clashes ending in slugging matches. Leaders like Denton found it more difficult to promote discipline and an unbending policy towards their captors as the war wound down. The prisoners lost the brave spirit which had bound them so closely together throughout the years of harsh adversity.

With the end of the war Denton led the first group of released prisoners on the flight to Clark Field in the Philippines. His simple words on landing were, "We are profoundly grateful to our Commander in Chief and to our nation for this day. God bless America."

This reviewer is forced to wonder if Denton and his fellow prisoners who from jail cells and solitary confinement fought a relentless war with a vicious enemy were no more than average Americans or an elite group intensely proud of their national heritage and determined to prove its superiority even

under hideous tortures. Our nation in the future may well desperately need elite groups fervent in religious faith and patriotism. Denton's little book of travail is perhaps the best training manual yet written by a military man on what it takes to achieve such heroic heights.

CANON LOCKETT F. BALLARD

Estes, Thomas S. and Lightner, E. Allan, Jr. *The Department of State*. New York: Praeger, 1976. 272pp.

This volume is one of a series comprising the "Praeger Library of U.S. Government Departments and Agencies." It represents the 34th volume of a series edited by Dr. Ernest S. Griffith and Dr. Hugh Langdon Elsbree, whose purpose is to provide an up-to-date, comprehensive, and detailed discussion of the American federal bureaucracy. This particular volume was first assigned to the late George V. Allen. Upon his death, the present authors took over the work. In the book as published, they have retained a first chapter written by Ambassador Allen on the diplomacy conducted prior to the Constitution.

The book contains ten chapters and four appendixes, plus a number of useful organizational charts. These appendixes and charts enhance the book's value considerably. For example, Appendix D is a listing of 12 foreign affairs manuals giving the main regulations of the Department of State.

For a compact book, its scope is broad. After the initial background chapter the book traces the development of the Department of State to its present organization. It then turns sequentially to policymaking and policymakers, to educational and cultural exchange, and interagency relations. Chapters VII and VIII deal with foreign affairs and the U.S. Congress, followed by the State Department and the public. The final chapters consider multilateral diplomacy and then the State Department in a changing world.

The authors are admirably equipped by background to write a first-rate treatment, and they do so. Thomas S. Estes, Ambassador to the Republic of Upper Volta from 1961 to 1966 (and State Department Adviser to the President of the Naval War College in the next 3 years) and E. Allan Lightner, Jr., former U.S. Ambassador to Libya, have 35 to 40 years of service each.

What is especially valuable about this book is that it is written by "insiders" who know their subject but who, despite long service in the Department, have a fresh perspective and are well aware that modern complexities call for some new bureaucratic solutions.

Finally, the book has the great merit of being up-to-date and accurate.

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Green, L.C. *Superior Orders in National and International Law*. Leyden: Sijthoff, 1976. 374pp.

My Lai and the Calley case apparently combined to inspire the Canadian Government to invite Professor Green to do a study of the problem of the availability of the defense of "superior orders" as a justification for illegal acts committed by members of armed forces. This book is the result. Professor Green graphically demonstrates the problem by prefacing his book with a three-box strip from *The Wizard of Id*. The Knight, Sir Rodney, orders a bowman to fire; the bowman does nothing; Sir Rodney demands to know what he is waiting for; the bowman responds: "My lawyer." This is both humorous and tragic: for, in truth, the poor serviceman is indeed sometimes placed in a position in which he must make a decision with respect to which lawyers would, and probably will, argue; and he must do this quickly and with the knowledge that he may be damned if he does and damned if he does not.

As its title indicates, the book dissects the law with respect to superior orders from two points of view: that of national courts applying national law in trials of their own nationals (the law of some 28 countries representing most of the major legal systems of the world are included); and that of courts, international or national, applying international law in an international context (the decisions of international tribunals and of the national courts of 11 countries are included).

The dilemma which confronts the serviceman is the conflict, or possible conflict, between two rules of conduct, both of which must govern his actions. A U.S. Military Tribunal at Nuremberg said: "It is basic to the discipline of an army that orders are issued to be carried out." A Navy Board of Review succinctly stated: "Predictable obedience is the essence of a disciplined military force." At the same time, international law, and most national laws, hold the individual serviceman personally responsible if, in obeying the order received from a superior, he commits a criminal act when "moral choice was in fact possible," or if, "in the circumstances at the time, it was possible for him not to comply with the order," provided that the order was "manifestly illegal" and "unless he did not know and could not reasonably have been expected to know that the act ordered was unlawful." Professor Green suggests that "the concept of *manifest/palpable illegality or unlawfulness*, which is not a concept readily understood by the ordinary man, be replaced by that of *obvious criminality*." This latter term might well be more understandable to the average serviceman—provided that he receives instruction in which he is advised that he must obey only lawful orders and that an order requiring him to perform an act of "obvious criminality" is not a lawful order and should not be obeyed. At the other end of the spectrum, Professor Green believes that the