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President's Notes: Challenge!

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CHALLENGE!



In a country full of lawyers and politicians, with a government possessing a President, Secretary of State, and a large corps of ambassadors and foreign ministers, it may be asked doubtfully why naval officers should give time to international law. The reply is that in this extensive system of functionaries the naval admiral or captain is incidentally one; and that, in international law as in strategy and tactics, he must know the doctrine of his country. In emergencies, not infrequent, he has to act for his superior, without orders in the spirit and manner his superior would desire. If in war, the war may be complicated by a dangerous foreign dispute arising from action involving neutral rights; or, on the other hand, a neutral unright may be tolerated to the disadvantage of the national cause. In peace, injudicious action may precipitate hostilities; or injudicious inaction may permit infringement of American rights, of persons or of property.

—Mahan: *Armaments and Arbitration*, 1912

In the 55 years since Admiral Mahan penned the words above, the Naval War College has continued to include in an increasingly demanding curriculum the study of international law. This year students in all three resident schools, Naval Warfare, Command and Staff, and the Naval Command Course, heard a series of 13 lectures by some of the foremost international law professors and practitioners from this nation and Canada. The lectures were directed toward those areas of primary interest to the naval officer—the law of the sea and the law relating to the use of force. In five seminar periods the students were required to analyze complex inter-

national law problems and apply the relevant principles of international law in reaching a solution. As in the past, the seminars were conducted by skilled professional international lawyers, both civilian and military, whose insight and personal competence greatly enhanced the character and substance of our discussions.

Why should the Naval War College, alone among the service colleges, place such emphasis on the study of international law? Part of the answer will be found in the quotation from Admiral Mahan. If one is to command a man-of-war on the high seas, where to a substantial degree international law is the only law, the necessity for an awareness of and appreciation for the subject is rather obvious. In addition, the interrelationship of legal, political, economic, and social factors which are operative on a global scale and the increasing significance of our international commitments require a clear understanding of the rules governing the relations between states. Developments on the international scene dictate that we provide our officers with an understanding of how other nations view international law. The Soviet Union, as it expands its maritime fleet and projects its naval power to distant parts of the world, is but one example of the changes that are taking place.

In this regard, it is of interest to note

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that whereas in the past the Soviets claimed jurisdiction over broad reaches of water areas such as the Barents Sea, today their national interests should dictate a different policy. With their adoption of a worldwide maritime strategy, they should recognize the serious consequences of broad territorial sea claims upon the concepts of freedom of the seas and innocent passage.

There are those who maintain that modern communications have rendered obsolete the words of Admiral Mahan, that such communications have made it possible to obtain professional legal advice almost instantaneously. Communications systems, no matter how sophisticated, are not absolutely reliable. In addition, just the speed of events alone may lead to a situation where it is not possible to obtain the guidance required. The *Pueblo* and *Liberty* cases are dramatic examples in point. More importantly, it must be remembered that direction in handling a problem that may be provided a commander "on the scene" will be of little value if the problem has not been correctly analyzed, evaluated, and reported by him. Accurate analysis of a factual situation will depend heavily upon a clear understanding of the legal issues involved. It is this that we hope to impart to our students; an appreciation of the role of international law, including an appreciation of its limitations in the contemporary scheme of events, and a capability to recognize the legal issues that may confront them in their future careers.

Proud as we are of our International Law resident program, we are equally proud of our International Law "Blue Books." International law has been included in our course of instruction since the lectures to the first class in 1885 by Professor James Russell Soley. Unfortunately, his lectures were not preserved. Commencing in 1894 the international law lectures were compiled, and in 1901 the first volume of the "Blue Book" series was published. The

early volumes, prepared by Professor George Grafton Wilson, the visiting lecturer in international law, included compilations of the lectures and problem cases given to the students as well as the texts of documents of special interest in international law. Since 1953, when the Charles H. Stockton Chair of International Law was established, the volumes consist of scholarly treatises in international law prepared by the Chairholders. A unique contribution of the Naval War College to the study of international law, our "Blue Books" enjoy an enviable reputation.

The importance of international law in the world community is ever increasing. There is presently a high degree of international interest in the formulation of a legal regime for the exploration of the deep oceans and exploitation of the riches of the sea. The prospect of extracting minerals and harvesting living resources from the sea captivates the imagination. Although commercial exploitation of deep ocean resources is not yet a reality, defense considerations associated with ocean activity must receive attention. From the Navy's point of view, claims to the seabed should be limited to exploration and exploitation. Vital defense interests could be endangered by permitting greater jurisdiction over the sea bottom. If the Navy is to perform its mission, unhindered use of the seas and the airspace above is a necessity. It is to be expected that not all will share our concern for the importance of free use of the seas. Thus, we must be prepared to present our case with precision and authority. This is the challenge we face.



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