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ADMIRALTY LAW AND ITS RELATION TO COMMAND AT SEA

A Lecture Delivered
at the Naval War College
on 18 May 1953, by
Rear Admiral Ira H. Nunn, U.S.N.

INTRODUCTION

Since mid-1950, the Navy has increased greatly in size; not only as to ships of the Navy itself but as to ships of the Military Transportation Service as well. Increases have been largely by way of activation of ships of the "moth ball fleet." Relatively few new ships have been added to our active seagoing forces.

Since this time and to the present date, we have lost 14,000 tons of ships by collision whereas we have lost only 4,000 tons as a result of enemy action.

We have lost far more lives in collisions at sea since June of 1950 than we have lost by enemy action; and during the same period the ships of the Navy have suffered much more damage as a result of collision than the enemy has been able to inflict upon them.

If it be that our professional skills and attainments in commanding and conning ships are deficient and that we are thereby too often in collision, we should feel a deep concern because nothing is more elementary and native to the naval profession than the safe conduct of ships.

These are the startling facts to naval officers and especially startling and of great concern to the Navy's admiralty lawyers

who are confronted with the chore of adjusting the claims and making the settlements which necessarily follow as an aftermath of collision at sea.

THE NATURE OF ADMIRALTY LAW

Let us examine briefly this thing known as *the admiralty law*, this tool for resolving the controversies which arise out of maritime damage. It is a strange thing, this admiralty law, but it has been with us a long time. It has its roots in antiquity.

I suppose the most ancient and at the same time the most simple law was the law of the jungle under which loss or damage caused by another was simply allowed to lie where it fell. The victim absorbed his loss without compensation from anyone.

But man's sense of justice was inflamed by the fact that a person damaged without fault on his own part had no recourse by peaceful means to recover his loss from the ones who did the injury. Of course, the injured party could use self-help by way of revenge but this only added to the sum total of loss and greatly disturbed the peace of the community.

Hence, man's progress from a savage to a civilized state has been marked by the development of rules designed to overcome the law of the jungle. No longer under law does the loss lie where it falls. The law causes the guilty party, or the party at fault, to make the injured party whole.

Thus, if I murder a citizen of the State and thus reduce the State's manpower, the injured State requires that my life

be forfeited in order that by my example others will be persuaded not to kill.

If I give my promise to another and receive value in return and then fail to perform so that the one to whom I made the promise is damaged, he may bring an action against me in the courts on the contract. The courts will require that I render up a sum of money sufficient to put the promisee in the same position he would have been had I not breached my promise.

If I willfully or negligently injure my neighbor or damage his property and he be without fault, the courts will require that I respond in damages in order that my neighbor may be made whole once again. The law will not let the loss lie where it fell.

Thus, the law of crimes, the law of contracts and the law of torts and all the other phases and branches of the law are designed to create justice as among men and to render obsolete the law of the jungle.

The admiralty law is no exception. Its pattern, however, is somewhat different from the pattern of the common law and these are the following reasons for this difference:

First, the admiralty law is ancient. It has been evolved slowly and by minute increment since man first ventured upon the surface of the sea with his person and his goods.

We believe that the common law of England commenced its development at the time of the Norman invasion. Therefore, it began to exist as we know it about the year 1066 A.D.

The earliest recorded admiralty law cases originated at the height of the power of the kingdom of Rhodes, about 900 B.C.

Thus, the concepts upon which admiralty law are based are about 2000 years older than those of our common law. Custom, practice and statute have modified both systems greatly throughout the years, but the reasons for a difference still exist.

Second, the admiralty law is universal among maritime nations. It is apparent from the mobile nature of its principal subject matter (I refer to ships) that there must exist a world-wide similarity in application of admiralty law by all of the principal maritime nations.

The admiralty law is really a part of the ancient "law merchant" and in that regard is not dissimilar from the law of negotiable paper — bills of exchange and promissory notes — which are governed by rules known to business men everywhere.

Third, the admiralty law proceeds along equitable rather than legal principles.

Thus, there is no jury. Cases are tried to the court. Usually the court disposes only of the issue of liability. The assessment of damage is usually left to a commissioner or proctor who is an officer of the court similar to the master in equity or to the referee in bankruptcy. If the parties do not agree as to the extent of damage, the proctor hears the evidence and reports his findings to the court for adoption.

The fact that there is no jury in admiralty has led to some strange consolidations of business in the courts. For example, there has at times been a court in England which devoted itself to the unrelated matters of Probate, Divorce and Admiralty.

Fourth, the admiralty courts have a limited jurisdiction. This limitation is, of course, to matters of a maritime nature.

Admiralty has jurisdiction of contracts of a maritime character. Ocean bills of lading, charter parties, marine insurance policies and ship repair contracts are typical. A contract to construct a ship is not within the jurisdiction of admiralty. But once construction is complete, all contracts to further her navigation and operation are matters for the admiralty courts.

The jurisdiction of admiralty in tort — that is, civil wrongs arising independently of contract — depends upon the locale of the injury. If the incident occurs upon navigable water, admiralty has jurisdiction. Damage done by ships to shore structures is within the jurisdiction of admiralty.

THE DIFFERENCES BETWEEN ADMIRALTY LAW AND THE COMMON LAW

There being reasons why the admiralty law is peculiar, let us see what the principal differences are.

MUTUAL FAULT.

Throughout my remarks this morning, I shall use the term "common law" to describe the body of law extant in this country exclusive of the admiralty field. There are those among you who will realize that such a reference to the common law is not quite accurate. I adopt it, however, in the sense I have described, as a reasonable satisfactory expedient for my present purpose.

Should I, while driving my automobile upon the highway, operate it negligently so that it collided with your automobile

which you yourself were driving, you could not recover from me at common law if you yourself were operating your car negligently and your negligence contributed to the accident. Your contributory negligence would be a bar to your recovery. For like reason, of course, I could not recover from you.

Admiralty law does not follow the common law doctrine of contributory negligence. Admiralty uses instead a rule of mutual fact which works like this: if ship Able and ship Baker collide by reason of the mutual fault of their respective navigators, the resultant damages are divided beween those two ships. Thus, if ship Able is damaged to the extent of $5,000 and ship Baker to the extent of $10,000, the damages of ship Able are substracted from those of ship Baker and the balance is divided between them so that ship Baker receives $2,500 and ship Able gets nothing. The ship damaged most gets one-half the difference. Hence, the only way you may collect in a mutual fault situation is to suffer more damage moneywise than the other fellow.

I believe the reason admiralty employs a doctrine of mutual fault is because admiralty procedure is designed to do equity between the parties. It is said that he who seeks equity must do equity, so a damaged ship seeking recompense is expected to make recompense for the damage she has done.

THE MARITIME LIEN.

Now, the maritime lien.

There are circumstances at common law under which a person may acquire a right to retain an article in his possession and look to that article for payment of a fee or other charge. There

are only a few instances in which this right may be acquired. For example, a warehouseman who stores goods may retain the goods until the storage charge is paid, and if the charge is not paid he may sell the goods to satisfy his claim. In order to exercise his lien, however, the warehouseman must have possession of the goods. If he surrenders possession, he loses his common law lien.

Now the maritime lien is quite an extensive and flexible thing — not nearly so restrictive as the common law lien.

This is because the admiralty law looks upon a ship as a legal person which has definite and personal needs. She requires food, servants, equipment and many things to enable her to continue the purpose for which she was created — that is, navigation. Generally speaking, to all who assist her, she may become personally liable — liable *in rem* — for the services they have rendered. Thus, those who furnish her with supplies, fuel, towage and many other things have a lien against the ship itself for their compensation. They may hold the ship and even sell her to satisfy their claims.

Unlike the common law lien, the maritime lien is not dependent upon the lienor's possession. The lien follows the ship wherever she goes or into whosoever's possession she may come — even into the hands of a *bona fide* purchaser. A maritime lien may be divested only by sale under a decree of an admiralty court in a proceeding against the ship itself — that is, in a proceeding *in rem*.

When questions of priority among lien holders arise, the liens take priority in the inverse order in which they were incurred. The theory behind this rule is that what was last done for the benefit of the ship was for the benefit of all concerned, including

the holders of earlier liens. So the latest lien will defeat prior liens when the liens are in competition with each other.

This is a very curious situation in the law where a claim latest in point of time is better than prior claims.

There is good reason for the peculiarities of the maritime lien. A ship by its very nature travels about and often finds itself in strange places and in need of assistance. It is a great help to the ship in securing its needs if the supplier knows he will acquire a lien which he will not lose when the ship departs and which will take precedence over other liens with which the ship may have been previously encumbered.

SALVAGE.

The law of maritime salvage is another instance in which there is divergence between the admiralty law and the common law.

If my neighbor's house catches afire and I voluntarily go to the rescue and spend great effort and incure grave personal risk in saving his property and extinguishing the fire, he is under no legal obligation to pay for my services. The Good Samaritan acquires no rights at common law.

The law of admiralty has a different concept. If a ship breaks down at sea or catches on fire, a volunteer who tows the ship to port or extinguishes the fire is entitled to a fair compensation for his salvage services. A salvor acquires a lien upon the ship to such an extent as an admiralty court may decide to be appropriate for the services rendered.

I suppose the law of salvage is a by-product of the unwritten law of the sea which requires that assistance be rendered to those in distress. Life at sea is still dangerous and a ship in distress desperately needs assistance from outside. The property involved is usually of high value and human lives are often involved. It is well, therefore, that the unwritten law of the sea exists and that assistance will be prompted by the fact that a salvor has a legal right of compensation as well as a moral duty to respond.

GENERAL AVERAGE.

The doctrine of general average is another peculiarity of the maritime law for which no counterpart exists at common law. General average works like this:

If a ship is driven by heavy weather onto the shore and it becomes necessary in the process of refloating her to lighten ship by throwing part of the cargo overboard, the owners of the jettisoned cargo are not without redress. The law requires that the value of the abandoned cargo, together with any other expenses incurred in saving the ship, be thrown into general average and all of the interests involved in the venture contribute to the cargo loss and other expenses in the proportion which their respective values bear to the amount of loss.

This doctrine of general average is based upon the concept that the voyage of a ship is a joint venture in which all involved participate alike; and no interest is entitled to succeed at the expense of any other interest.

LIMITATION OF LIABILITY.

Still another unusual provision of admiralty law is the one under which a shipowner may, in certain situations, limit

his liability against tort claims to the value of his ship immediately after the accident. Of course, if the ship is lost, its value after the accident is nothing.

There are, of course, certain circumstances at common law where a person's liability is limited. The liability of a stockholder in most corporations is limited to the extent of his holdings; and I suppose that the liability of a bankrupt person is limited to the value of his assets. But the common law generally is wary of permitting persons to insulate themselves for liability for their acts.

The provision for a limitation of the shipowner's liability in admiralty came about by statute. The incentive which prompted the legislation was the desire first by Great Britain and then by the United States to encourage the investment of capital in shipping enterprises.

It was urged in support of this legislation that a shipowner cannot control his vessel to the same degree that the owner of a factory on shore can control his plant. The shipowner has constructed a seaworthy vessel at great cost, caused it to be inspected and manned it with skilled personnel certified as competent by an agency of the Government — the Coast Guard. It was argued that in such a situation, the damage which those in control of the vessel might do, if the shipowner was not in privity with the act causing damage, he was entitled in good conscience to limit his loss for tort damage to the value of the vessel immediately after the accident plus her pending freight.

Such was the law for several years until there occurred the disaster to the MORRO CASTLE.

The MORRO CASTLE, a passenger ship, caught fire while bound from Havana to New York. She was beached on the New Jersey coast. One hundred and thirty-five lives were lost and serious injuries were sustained by many of the survivors.

The ship had been completely gutted by fire and had only scrap value. The shipowner could, of course, limit his liability to that value. The consequence was that the next of kin of those who met their death and those who suffered serious injury received practically no compensation.

The unfairness of the situation thus revealed led Congress to amend the law so as to require, in those cases where the ship's value after the accident was insufficient to care for all claims, that the limitation fund be increased by a sum equal to $60 per gross ton — this additional fund to be available solely for distribution to death and personal injury claimants.

Another effect of the amendment made at this time was to cause the privity or knowledge of the Master to the negligent act which caused the damage to be that of the shipowner himself so as to defeat limitation insofar as death or personal injury claimants were concerned.

ADMIRALTY JURISDICTION IN THE UNITED STATES

The nature of admiralty law and its peculiarities having been discussed, it seems appropriate to point out that admiralty jurisdiction in the United States is vested in the Federal Courts.

The Constitution provides that the judicial power of the United States shall extend to all cases of admiralty and maritime jurisdiction.

Thus, the Federal District Courts have initial jurisdiction of admiralty actions. Appeals lie to the United States Courts of Appeal and to the Supreme Court of the United States in much the same manner as other actions commenced in the Federal District Courts.

ADMIRALTY SUITS BY OR AGAINST THE GOVERNMENT

There has never been any difficulty about the Government bringing suit against others in admiralty matters. Prior to 1916, however, private persons had no legal remedy against the United States for damage caused by Government vessels.

This was the result of the doctrine of sovereign immunity which we inherited from Great Britain. Under this doctrine "the King can do no wrong." The natural consequence of this lack of remedy for private persons in the courts, the Government not having consented to be sued in admiralty cases, was that Congress was presented with numerous bills for the relief of private persons who had been injured by the negligent operation of Government vessels. Congress was under a considerable burden in handling this type of business which was really a fit subject for adjudication in the courts.

So Congress incorporated into the Shipping Act of 1916 a provision which made the vessels of the United States Shipping Board, while they were employed as merchant vessels, subject to "all laws, regulations and liabilities governing merchant vessels" despite the Government's ownership and operation of the vessels.

In the case of the LAKE MONROE, the Supreme Court of the United States held that the waiver of sovereign immunity

contained in the Shipping Act of 1916 subjected the merchant vessels of the Shipping Board to proceedings *in rem* in admiralty. The arrest and seizure of these Government ships proved embarrassing to the United States.

Accordingly, Congress passed in 1920 the Suits in Admiralty Act which exempted Government merchant vessels from seizure or arrest, but provided that libels *in personam* could be filed against the Government in any case where a procecding in admiralty could be maintained if the vessel were privately owned.

The Shipping Act and the Suits in Admiralty Act covered only merchant vessels of the United States and there was still no waiver of sovereign immunity with respect to public vessels. All naval vessels are, of course, public vessels of the United States.

The Act which governs suits against the United States for damage caused by its public vessels — which, of course, includes naval vessels — is the Public Vessels Act of 1925. This Act permits a libel *in personam* to be brought in admiralty against the United States for damages caused by public vessels.

The net result is that Government vessels of all kinds, public and merchant, are now subject to just about the same liabilities as commercial vessels, with the exception that arrest, seizure, or the existence of a maritime lien against a Government vessel are not allowed. The personal credit of the United States is substituted for the security which arrest or lien affords.

While the Public Vessels Act allowed suit against the Government for damages caused by a naval vessel, it made no provision to enable the Department of the Navy to settle these cases administratively.

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ADMINISTRATIVE SETTLEMENT OF ADMIRALTY CLAIMS

Prior to 1944, the Navy had a very restricted authority to settle admiralty claims administratively. Settlement could be accomplished only if the claim did not exceed $3000. This, of course, was useless in settling anything other than very minor claims. Hence, most of the Navy's admiralty business was thrown into litigation where it was either settled by the Department of Justice or actually tried in the Federal Courts.

The great increase of naval activity in World War II, with the resultant increase of admiralty business, induced Congress in 1944 to authorize the Secretary of the Navy to settle claims for damage caused by naval vessels in amounts up to and including $1,000,000. The Secretary has corresponding authority to settle the Government's claims for damage to naval property caused by vessels or floating objects.

In addition, some claims of an admiralty nature not involving a naval vessel can be dealt with under the Federal Tort Claims Act of 1946. Examples of this type of claim occur when a commercial vessel sustains damage through the negligence of a pilot who is in the service or employ of the Navy, and — another case — when a naval crane on shore drops a bucket on a commercial barge when loading or discharging.

The Admiralty Division of the Office of the Judge Advocate General is charged with the processing and settlement of claims under the Secretary's settlement authority.

COLLISION AT SEA

The great bulk of the Navy's admiralty business lies in the field of maritime torts, and the most often encountered of the

maritime torts is that of collision. Certainly, the collision is the most dramatic and the most injurious of the maritime torts.

Collisions are difficult to adjudicate. The testimony is always conflicting. In fact, it is said that typical collision occurs when two vessels sight each other on a clear day at a distance of several miles on opposite and approaching courses, and each vessel backs full until the collision occurs.

There are, of course, many and varied maritime torts. To mention a few of the examples of the variety involved in this broad field:

There are the damages to shore structures where a vessel misjudges the effect of wind, tide and current, and lands too hard against a wharf or dolphin;

There are the cases of damage by swells or wave-wash, set up by a passing vessel, which cause damage along the shore;

There are the situations where a vessel does damage to fish nets, lobster pots and crab traps;

There are incidents of cargo damage in the rather rare cases where commercial cargo is carried in a Navy bottom;

There are the cases of personal injury to stevedores, passengers and visitors on board ship;

There are oil spills encountered while taking fuel on board which may cause damage to the hulls of other vessels or small craft nearby;

If a naval vessel should blow her tubes in an unfavorable wind, resulting in soot damage to nearby property, this would be considered damage caused by the vessel;

There is a case on record where a small boat was trying to run a line to the shore in the vicinity of San Francisco. When the line-throwing gun was fired the line parted, with the result that the projectile over-carried and landed in the living room of a house on the beach in San Francisco — causing damage of course;

There was an incident in which a naval vessel while engaged in anti-aircraft target practice fired a shell which fell several miles inland and exploded near a farmer's truck, demolishing the truck and seriously injuring the farmer. This claim was settled as damage caused by a naval vessel.

The concept of damage caused by a ship is given a broad interpretation, as you can see. The theory is that pretty generally any act by the ship will be considered the proximate or legal cause of damage.

Perhaps the greatest extension of the theory is found in the case of the CAVALIER, a Canadian vessel which during the war was ordered to follow in the wake of a small patrol craft into the harbor at Norfolk, Virginia. The patrol craft, being of shallow draft, passed safely over the hulk of a submerged wreck, but the CAVALIER, being of greater draft, struck the wreck and sustained serious damage. The Supreme Court of the United States held that the injury to the CAVALIER was damage caused by a naval vessel even though there had been no contact between the CAVALIER and the patrol craft.

There are still other illustrations of the wide variety of

cases which may be included in the concept of damage caused by a naval vessel.

If a ship's crew were painting the hull, using a sprayer instead of brushes, and some of the paint spray was carried by the wind to the hull of a small pleasure craft moored nearby or to automobiles parked near the ship's berth, this could be considered damage caused by a naval vessel.

So it would be also in the case of a vessel which might be so unfortunate as to drop her anchor in a cable area, snagging and parting privately owned cables under the water.

The same would be true of a naval vessel moored for a long time in the vicinity of commercial clam flats or oyster beds, whose sewage discharge contaminated the bivalves so they could not be harvested and sold commercially. The damage might well be considered to have been caused by the naval vessel.

The right to sue the United States under the Public Vessels Act and the Secretary of the Navy's settlement authority extends also to claims for compensation for towage and salvage services rendered to a naval vessel.

The examples I have mentioned illustrate the great variety of claims and their diverse nature with respect to which the Government has waived its sovereign immunity and which are included in the Secretary's settlement authority.

THE EXPENSE OF COLLISION

The maritime tort which comes closest home to the naval

officer is that of collision — by that I mean the unhappy situation which comes about when two ships touch each other.

Since Korea, naval activities have increased tremendously. Since then, many millions of dollars have been spent in reactivating and recommissioning the ships needed for combat, patrol, transport and training. The Navy has, in fact, activated some 590 ships from the "moth-ball" fleet to meet the needs caused by the Korean emergency.

The Navy's objective is constant readiness for assigned missions. Apart from the harmful interference with scheduling, logistics and combat readiness — which the laying up of a ship for collision repair entails — there is a great financial loss suffered by the Government in the payment of damage claims either through settlement or through litigation.

I have previously pointed out that the Government is liable in the same manner as a private shipowner for damage inflicted by naval vessels. The discharge of that liability is a further drain on our Treasury and is harmful to our economy.

I do not mean to imply that the naval vessel is always to blame. Indeed, in many cases the naval and private ships are both at fault. Sometimes the naval vessel and at other times the private vessel is solely at fault. Then sometimes the collision is between two naval vessels — as in the unfortunate WASP-HOBSON incident. No matter what the blame, or who is involved, collision results in expense to the United States.

These cases involve not only the expense of effecting physical damage repairs, the expense of detention of a vessel during the

repair period, drydocking and other miscellaneous expenses, but also the disruption of crews and, in addition, the disclosure of evidence of poor ship handling which does not serve to enhance naval prestige.

The records of our Admiralty Division disclose that since Korea the Navy has spent $505,000 in settlement of claims for damage caused by naval vessels. These payments all come out of appropriated funds, of course. During the same period the Navy has collected only $189,000 in payment for damage caused by others to naval vessels. We seem to be paying out almost $3 for every $1 we collect. These figures do not represent total losses or gains because under the rule of mutual fault, which I have previously explained, damages are divided or set off in cases where blame attaches to both ships. And, too, these figures do not include what we pay out by reason of cases which are litigated in the courts.

In one major case now being litigated, the Government's ultimate loss will exceed $14,000,000. In addition to this fiscal debacle, we lost a much needed and recently activated hospital ship. I refer to the BENEVOLENCE-LUCKENBACH collision.

In another case which we are now trying to settle the claims approximate $12,000,000. This is the unfortunate collision between the GENERAL HERSEY and the Argentine vessel MAIPU.

As of today, there are 124 claims for damage caused by naval vessels totaling approximately $14,000,000 which are awaiting administrative settlement. About 67% of this amount arises out of collision damage.

While the vast majority of the collision claims against the Navy are disposed of pursuant to the Secretary of the Navy's

settlement authority, it is inevitable that some claims must be litigated. The claims pending in litigation number 37 and involve an approximate total of $4,550,000.

THE CAUSE OF COLLISION

It has probably occurred to you to wonder, while I have been talking, what is the chief cause or fault by the Navy which results in our enormous bill for admiralty damage. Many things contribute to our fault in these cases, of course, but I have no hesitation in naming the principal fault — and that is excess speed in a fog.

I've often wondered why we are so often guilty of excess speed during conditions of reduced visibility. I can only speculate upon the answer; but, based upon my own experience and the cases recently decided by the courts as well as those which I've observed since taking office as Judge Advocate General, I believe I can say that at least a very large contributing reason is an unwarranted reliance upon radar.

RADAR

This leads me to a discussion of the impact of radar upon admiralty law.

Radar can be either a blessing or a curse. Most often it is a blessing. It is too new for the law upon the subject to have been completely crystallized. Nevertheless, I feel that some precepts can be drawn at this time from the cases which have been decided.

With respect to radar, I'd like to state a few cases and then distill from the decisions what I believe those cases show the law

to be — at least they indicate what we may call a trend of judicial decision.

BARRY-MEDFORD.

In the BARRY-MEDFORD case decided in 1946, the THOMAS BARRY, an Army transport making 18 knots sighted a fog bank ahead — which she entered 22½ minutes later without reducing speed. Collision occured with the trawler MEDFORD two minutes after BARRY entered the fog bank. BARRY was equipped with radar but the radar was not placed in operation prior to entry into the fog bank. MEDFORD had no radar.

At the time of collision, MEDFORD had no lookout in the bow and was sounding improper fog signals. Counsel for BARRY, admitting an immoderate speed in a fog on the part of his vessel, nevertheless argued for a mutual fault settlement because of MEDFORD'S faulty lookout and improper sound signal. His argument was rejected and a mutual fault settlement denied because of BARRY'S failure to activate and use her radar. The Court (U. S. District Court for the Eastern District of New York) said:

> "The failure of the BARRY to use her radar is the most serious and sinister aspect of this case. The perfection of that device is thought to have invoked a new concept of the responsibilities of vessels so equipped, touching their handling and operation in or near a fog area * * *.
>
> "The offending ship could have informed herself of the presence and track of the MEDFORD in abundant time to have avoided by a wide margin any danger whatever of striking her. Under such circum-

> stances, it is impossible to yield to the argument for the BARRY, that her conduct is to be condoned to any extent, in view of her failure to employ the very device which was installed to prevent a collision."

Here, then, is a duty laid by the Courts upon radar-equipped vessels to use radar in or near a fog. There seems little question that this duty would also apply under any conditions of reduced visibility.

Furthermore, dictum in the opinion indicates that, with radar in operation, the court would expect a series of ranges and bearings to be taken and plotted to determine the course and speed of the target in time to take avoiding action.

AUSTRALIA STAR-HINDOO.

The following year, that is in 1947, the case involving the AUSTRALIA STAR and the HINDOO was decided.

In this case, which occured during the war, the AUSTRALIA STAR was proceeding at night blacked out. She was radar-equipped and her radar was in operation. She picked up the HINDOO by radar twenty-eight minutes before the collision, and twelve minutes before the collision the AUSTRALIA STAR turned on her navigation lights——but at no time did she track HINDOO by radar or take other avoiding action. HINDOO was at fault by reason of insufficient lookouts and counsel for AUSTRALIA STAR sought to avoid fault by AUSTRALIA STAR.

The Court, however, made a finding of mutual fault on the ground that had the AUSTRALIA STAR tracked HINDOO by

radar, she could have avoided collision. The Court said, among other things:

> "It has been suggested that to hold the AUSTRALIA STAR at fault is to penalize her because of her equipment with radar. That is a misconception. The conduct which is regarded as negligent on the part of a person of sound vision is not the same as that which is condemned when practiced by the blind. The fault of the AUSTRALIA STAR is that she chose to remain blind when she had the means to see.
>
> "Prudent navigation involves taking advantage of all the safety devices at hand * * *."

You will note that in the BARRY case a radar-equipped ship made no use of radar. In the AUSTRALIA STAR case a radar-equipped ship did use her radar but did not use it to the full extent of its potentialities. The Courts found fault with both situations.

Thus, we may expect the Courts to hold that a radar-equipped vessel operating in a fog or under conditions of low visibility, must place her radar in operation and, in addition, must obtain a succession of ranges and bearings and must determine the course and speed of any vessel picked up by radar in order to avoid collision.

THE SOUTHPORT.

In a British case decided by the High Court of Justice, Admiralty Division, in 1949, the SOUTHPORT — one of the colliding vessels — was using her radar apparently to its full potential

but she misinterpreted the information she received from her radar apparatus. In other words, this case involves a full use of radar but an erroneous evaluation of radar data.

At the time of the accident, the SOUTHPORT was running in a fog at a speed of 9 knots. The Courts held under the circumstances then prevailing this was an excessive speed which could not be excused on the theory that radar permitted greater speed because here the vessel failed to make proper use of her radar.

The Courts expressly left open the question whether a vessel making proper use of her radar would be justified in running at a speed higher than that which would be moderate under ordinary circumstances.

TRITON-BARANOF.

The very recent case of the TRITON-BARANOF was decided by the Exchequer Court of Canada (British Columbia Admiralty District) on February 2nd, 1953. It reflects a further aspect of the impact of radar on collision law.

TRITON and BARANOF approached each other one fine clear summer night in the Straight of Georgia, in Alaskan waters. The ships were approaching nearly head-on but under circumstances which would have resulted in a starboard-to-starboard passing if both vessels had maintained course and speed. The collision occured in pilot waters and pilots were conning both vessels.

The ships did not maintain course and speed as they should have done and a collision resulted. The situation became confused

and I believe may best be described in the words of one of the pilots who responded in the following hopeless fashion when asked how the collision occured:

> "The only idea I have is that he cut across my bow; where he came from and how he got there I don't know. What he was doing I don't know."

However, the Court had no difficulty in finding the BARANOF at fault because on that fine clear summer night the pilot of that ship was conning by radar rather than by visual means which were available to him.

The Court in its opinion quoted this excerpt from an article by Mr. James H. Hamilton in "Harbor and Shipping" of January, 1953:

> "In a recent collision case in the United States Courts the Judge made the remark that radar 'is a very good working cane but a very bad crutch!' His intention was no doubt to call to mind the fact that the introduction of radar as an aid to navigation did not warrant the assumption that the international 'Regulations for Preventing Collisions at Sea' are bypassed or in any way changed by reason of the additional and valuable assistance which radar provides."

IN GENERAL.

I believe than an examination of the decided cases, a few of which I have discussed, lead reasonably to the following inferences as to radar's effect on navigation and the Rules of the Road:

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1. Radar is no substitute for lookouts — nor will reliance upon radar excuse the failure to keep a proper lookout.

2. A radar-equipped vessel is under a duty to operate its radar for purposes of tracking targets when in or when approaching an area of restricted visibility.

3. The use of radar will not excuse immoderate speed as interpreted under Article 16 of the Rules of the Road.

4. A vessel which misinterprets or makes improper use of the information furnished by her radar set may be at fault in violation of the General Prudential Rule.

5. Under wartime conditions it is a fault on the part of an escort vessel for failing to supply radar-obtained information to ships under her control but this fault cannot be imputed to the colliding non-radar-equipped vessels.

6. The failure of a vessel to carry navigational radar does not render the vessel unseaworthy,

and last, but not least

7. Radar is a very good-working cane but a very bad crutch.

One last thought on collision:

I've said that the most frequent cause is immoderate speed in a fog. In reading the many cases which illustrate that point,

I've been forcibly impressed with the number of such accidents which occur very soon after entering the fog bank. Our present HERSEY-MAIPU is such a case; so is the BARRY-MEDFORD case which I have previously discussed. There are many others.

It seems that the crucial time is upon entry into a fog bank. There must be a reason unknown to me why this is so without attempting to explain it, I leave it with you as a warning from which you may profit.

THE REVISED INTERNATIONAL RULES OF THE ROAD

I have promised myself the pleasure of warning you, sometime during the course of this talk, of the forthcoming advent of the Revised International Rules of the Road.

Mariners who sail the high seas on and after January 1st of 1954 will be sailing under these Revised Rules.

They were drafted at the International Safety of Life at Sea Conference held in London in 1948.

The rules were to become effective when Great Britain, as the depository nation, had signified that there had been a "substantial unanimity" of acceptance by the maritime nations participating in the Conference. Formal notice of unanimity was issued on January 1st, 1953, so that, as provided in the convention, the rules will become effective one year from that date.

This is the first revision of the International Rules of the Road in many years.

The rules have not been changed so that mariners will be confronted with entirely new rules. However, there are sufficient

differences between the old and the new to require mariners to study the new rules carefully.

A detailed discussion of the changes would be inappropriate here, still I believe it desirable to mention briefly some of those which are most important.

The new rules will be applicable to seaplanes on the water as well as to vessels.

The range light, now optional, will become mandatory except for vessels less than 150 feet in length and for vessels engaged in towing.

The lighting requirements for pilot vessels, fishing vessels and vessels engaged in towing operations have been revised. These revised details will require your careful study.

The presently optional fixed stern light has been made mandatory and its range of visibility has been increased from one to two miles.

The range of visibility of anchor lights has been increased for all vessels under 150 feet in length from one to two miles, and for vessels exceeding that length from one to three miles.

Fog signals for certain vessels at anchor in a fog have been revised and the distress signals have been re-grouped, with a new signal provided. Again, these revisions will require careful study.

A bend signal of one prolonged blast has been made mandatory for vessels navigating channels.

Another new and very important signal which, in my opinion, should tend to prevent collisions in the privileged and bur-

dened vessel situations is that a danger signal of five or more short blasts has been authorized for use by a privileged vessel in doubt as to the burdened vessel's intentions or actions.

The necessary enabling legislation adopting the rules for use by the United States and authorizing the President to proclaim them at the proper time, was enacted by the Congress on October 11th, 1951.

Now with the adherence to the Convention by the very substantial majority of the leading maritime nations, the Presidential Proclamation is in the process of issuance.

The Hydrographer has been designated to disseminate the new rules to the Fleet and they will undoubtedly be circulated in the very near future.

I commend them to your careful study and consideration.

CONCLUSION

It may be that those of us who follow the sea have become too secure in our reliance on modern instrumentalities. If that be true, the present is the best time to take stock of our situation and to return to the degree of care and prudence which has been the hall-mark of mariners since men first began "to go down to the sea in ships."

BIOGRAPHICAL SKETCH OF LECTURER

Rear Admiral Ira H. Nunn, U.S.N., was graduated from the U. S. Naval Academy in 1924. He is also a graduate of Harvard University Law School.

Rear Admiral Nunn's appointment as Judge Advocate General in June, 1952, marked his fourth assignment in that office. Hc served there first in 1931, again in 1937, and as Legislative Counsel from 1945 to 1948.

During World War II, Admiral Nunn participated in operations in the Pacific Theatre — first, as Commander Destroyer Division 2 and, later, in command of Destroyer Squadron 47 with additional duty as Commander Destroyer Division 54.

In addition to the Navy Cross, he was awarded the Bronze Star Medal with Combat "V" and Gold Star in lieu of the second Bronze Star.

Immediately prior to the assumption of his duties as Judge Advocate General, he served as Executive Assistant and Senior Aide to the Chief of Naval Operations.

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INTRODUCTION TO COMMAND INTELLIGENCE

A Lecture Delivered
at the Naval War College
on 31 August 1953, by
Captain George R. Phelan, U.S.N.

Gentlemen:

Today, I shall attempt to introduce the subject of *Intelligence* from an unconventional point of view — that of the commander rather than that of the intelligence officer — for intelligence is a function of command.

Furthermore, as this is the Naval War College where problems are usually conducted on a fleet or force level, I shall talk more or less from the point of view of such commanders. While this puts intelligence in a narrow naval package, it should serve as a satisfactory point of departure for the broader national and joint aspects which will be presented later in the course.

Before World War II, interest in intelligence was confined, for the most part, to the military services and writers of popular fiction. Today, there is widespread interest in its activities. Both the public and the Congress show an appreciation of its need in these atomic days.

Before the last war, only the Navy and War Departments had formal intelligence organizations. Now, there is a vast intelligence pyramid — composed not only of the service agencies, but also those of the State Department, the Atomic Energy Commission, the Treasury, and the Department of Justice; at the apex of this pyramid, is the Central Intelligecne Agency whose level of

operation is that of the National Security Council. Other departments also have smaller intelligence divisions and sections.

Today, intelligence is big business. Informed estimates place the number of people directly engaged in United States intelligence activities at between fifty and seventy thousand; in wartime, this is expected to increase at least tenfold — a half million to a million bodies — a *sizeable slice* of the manpower pie.

As intelligence organizations have expanded, much has been written for the guidance and instruction of intelligence officers; almost nothing for the guidance of commanders whom they serve. Consequently, a commander who wishes to become familiar with the intelligence element of his command finds his patch obscured by abstractions and complexities of publications whose point of view is that of his intelligence officer.

Therefore, in this introduction I shall attempt to delineate the commander's interest in intelligence and avoid as much as possible technical considerations of an intelligence officer. The limits of my field for this will be the positive side of intelligence — which I shall discuss under the following headings: (a) its nature; (b) its function in command; and (c) its processes.

Now, then, as regards its nature: —

I would like to fix a point of departure by delimiting the meaning of the word "intelligence" for, like all technical terms, it does not mean the same to everyone.

A hundred years ago the word "intelligence" was used to denote what we call "news." The editor of a paper would write

that he had received intelligence of the arrival of a ship. This meaning has all but disappeared from common usage, but is still used in a specialized and restricted sense by the Armed Forces and other government agencies concerned with the formulation of foreign policy. In these agencies its use has been restricted to knowledge of foreign nations or hostile forces. The *Dictionary of U. S. Military terms for Joint Usage* defines "intelligence" as: *Knowledge achieved by logical analysis and integration of available data concerning one or more aspects of foreign nations or areas and immediately or potentially significant to planning."*

This definition emphasizes that intelligence is not an undigested and chaotic mass of rumors, reports, idle speculations, and facts. Such data, from the military point of view, are simply raw pieces of information — even though it is about an enemy. Intelligence, on the other hand, is the product of a critical and informed examination of all such data. What is true must be separated from what is false; what is more probable from what is less probable. Finally, intelligence must be pertinent to some immediate or future use; curiosities and irrelevancies — no matter how interesting — are not intelligence.

Needless to say, intelligence has been divided into many categories and given many fancy labels. Such classifications are for the most part made by the various intelligence agencies for their own purposes and according to the prevailing fashion. The distinctions which they draw are often ambiguous and of little real interest to the commander for whom the word "intelligence" suffices for all his needs. All intelligence available to a fleet or force commander or to you here at the War College comes under one of two classifications: *Strategic Intelligence* or *Operationat Intelligence.*

Strategic Intelligence is a term common to the National Security Agency as well as the Armed Forces, and it means something a little different in each place. The word "strategic" may be somewhat misleading to naval officers for in reality what is meant is intelligence needed for planning purposes. *Naval Strategic Intelligence* is officially defined as: *"Intelligence on the capabilities, vunerabilities and intentions of possible or actual enemies within the field of naval warfare."*

Operational Intelligence is a term more or less peculiar to the Navy, though it is coming into use in other services. It designates that type of intelligence used by the fleet commanders in the last war. It has been officially defined as: *"Intelligence needed by naval commanders in planning and executing operations including battle."*

The difference between strategic and operational intelligence is one of *point of view* and *handling*. ONI sends CINCPAC strategic intelligence; CINCPAC uses it in the form of operational intelligence.

In any case, here at the War College you need not concern yourself with fine differences between terms because almost all of the intelligence available to you falls under the *strategic* category. You will meet operational intelligence only in a simulated form.

Although it is all intelligence from the commander's point of view, there are certain innate differences which affect his use and appreciation of it.

First, intelligence is either *static* or *dynamic*. Static intelligence does not change appreciably. It usually embraces natural

features and more or less permanent structures. We are all familiar with many examples of it in the form of maps and charts or the population of a country. Dynamic intelligence, on the other hand, has no permanency — change is normal. Good examples are troop deployments and ship dispositions. The important difference between the two is that static intelligence, once its authenticity has been established, need not be reexamined. Dynamic intelligence gives no such assurance, and it must be interpreted in light of the trend it implies for its sense may have changed between the time of collection and consideration.

Second, intelligence is either *overt* or *covert,* according to whether its source is open or clandestine. Overt intelligence is the canvas upon which the picture is painted; it requires no discussion. The outstanding feature of covert intelligence is the necessity of protecting its source. It must be disseminated only on a "need to know" basis. In fact the more important it is to us, the smaller the group that should have access to it. This means that commanders on higher echelons will generally have sources of intelligence that are not available to those on the lower ones. As a result, general command doctrine must sometimes be violated, and a subordinate commander told specifically what to do with no apparent reason.

Again, some covert intelligence is so important to our overall mission — yet derived from such a delicate source — that its use must be denied our own forces rather than risk compromise of the source. For instance, a fleet commander may deny intelligence to all but a small group charged with the conduct of the battle although it often would have been helpful to other operating forces. Needless to say, this is a hard decision to make — and one that can be made only by the higher echelons of command.

It is a cold fact of intelligence history that men have been sacrificed to preserve an important source.

Third, there is *old* and *new* intelligence. A commander must always consider the time element involved in forming conclusions from intelligence reports. Old intelligence cannot always be combined with new to make a picture — especially if it is dynamic in nature. As obvious as this is, you will find that delays in transmission and confusion of time of origin with the time of the event make this error more frequent than you would expect.

Finally, distinction must be made between intelligence derived from *primary* or *secondary* sources. *Primary Source Intelligence* derives from a direct process of observation or collection. Thus, an agent's report of having seen a number of ships in one place or the photograph of a gun emplacement would be primary source intelligence. *Secondary Intelligence*, on the other hand, derives from the processing of one or more primary source reports. It is usually met in the familiar form of intelligence publications, estimates, appreciations, etc. The intelligence which will be given you here — or is available to you in the library — is classed as *secondary*.

If this distinction is not recognized, secondary intelligence may easily be used to confirm the primary intelligence from which it was derived. The result is often misleading and sometimes ludicrous. For example, there was a report from an agent who stated that the Chinese Reds were going to launch an amphibious attack against our forces as Inchon from the Shantung peninsula. Later, the same report — as original information — was received from three different sources. After the lapse of several days, another agent stated that he had received confirmation of the report of the

original agent from three other sources. From certain peculiarities of all these reports, we were able to identify their true source as the original agent's report. Among other things, it was apparent that the second agent had unknowingly used the first agent's report to confirm itself. Although the original report was evaluated unreliable and improbable, once having gotten in the intelligence system it blew around the world for months just like a dry leaf in a ventilator.

So far, I have defined intelligence and classified it. I shall now talk about some of its limitations.

Complaints are often heard that intelligence conclusions are either too vague or too general to be of real value, and that intelligence officers are always coppering their bets. Unfortunately, this is sometimes true, but it is also true that many complaints stem from a lack of appreciation of the limitations inherent in the intelligence process.

Interpretative intelligence, like calculus, is an art of limits. Its truths cannot be expressed in absolute terms. They lie between certain defined limits whose distance apart is dependent on the amount of information available — and its accuracy.

The intelligence picture is painted in shades of gray — not in black and white. Although this can be remedied to some extent in war, some "grayness" is always present. We were supposed to have had the data at the Battle of Midway, but I think that you would be surprised at the grayness of the picture from which Admiral Nimitz made his initial decisions two months before the battle. At that time, we did not have the Japanese plan as some people think but simply bits of information that seemed to form

the dim outline of a plan such as hints of the area, of the forces involved, and a broad time bracket of when a major campaign would be launched. If Admiral Nimitz had misread this picture or waited for more information before starting action, it would have probably been too late to have assembled the forces to defend Midway.

While this is not a command lecture, I suggest to you that the ability to reach a proper decision from a dim intelligence picture is an attribute of a truly great commander.

The limits of intelligence are never more apparent than in attempting to fix the time of a future event. For instance, when will the enemy start a war? Although the public generally believes that intelligence can predict D-day or Y-year, the only way to *predict* such events is to *attack the enemy.* If you are forced to remain on the defensive, your intelligence can only inform you that the situation is so threatening that hostilities can commence any time. Unfortunately, a threatening situation has the habit of persisting for some time, and you become so conditioned to it that its translation into action is a true surprise.

From time to time, you will hear about indicators of war. The general idea is that it should be possible to have a checkoff list of significant events, actions, developments, etc., which, if carefully watched, should give a clear indication of a war situation and even imminence of attack.

Before World War II, there was worked out a normal distribution pattern of Japanese shipping with emphasis on tankers. Any change in this pattern would be an indication of war. The idea proved correct — but it just happened that the change occured

about one year before Pearl Harbor, a result of the European war and our economic policy towards Japan.

Since then, much work has been done on the problem and someone is always discovering a new solution. I do not ask you to share my pessimism on this subject, but I suggest that any system purporting to be a list of the indicators of war be regarded with skepticism.

Finally, I should like to say that the limits of intelligence cannot be presented with mathematical precision. They must be expressed in general terms; hence, the tent-like generalities of intelligence papers. This should be borne in mind when you read intelligence material in the library. No attempt should be made to read into it positive intelligence which it can support, but rather an effort should be made to picture the limits within which its truth lies.

So far, I have examined various aspects of the nature of military intelligence: what it is, its classification, its types, and its limitations. I now come to my second topic: intelligence as a function of command. For the purposes of clarity, I shall separate this into two parts: one, the basic philosophy of the intelligence-command relationship; and, the other, the more concrete and current intelligence functions of command.

To understand the philosophy of the relationship of intelligence to command, it is necessary to orient its military concept within the wider and more general field.

In its broader sense, intelligence is an element of power — and from earliest times princes and potentates, bishops, politicians, and businessmen have recognized that to carry on their affairs

with success, knowledge of the world around them was as necessary as the capacity to act on such knowledge. Much advantage accrued to such organizations as the Roman Empire and the Medieval Church, who could afford to maintain the means to keep themselves informed and thereby establish a quasi-monoply on news.

As communications improved and education became more widespread, monoply of news became more and more difficult. Emphasis on intelligence then shifted to securing news of special and superior importance, and more quickly than that available to the general public. Hence, reports of secret agents and the like became highly important to governments and quasi-governmental organizations because they could provide this special information before the course of events made it public property.

Obviously, the kind of intelligence that was most significant related to the sources of power in foreign states and the intentions of those who manipulated that power. Hence, in the 17th, 18th, and early 19th centuries, intrigues and cloak-and-dagger work were the hallmarks of high politics.

Today, this broad general field has come to be known as *national intelligence*, and it is more likely to be derived from statistics. However, its basic interest has remained centered in power and power manipulation in foreign nations. Because national interests and sources of national power in a modern state are very broad, national intelligence has retained the *inclusive character* it had in the days when it was primarily news.

Those interested in policy or power have always followed closely, but in a broad way, the armed forces of foreign countries because military capacity is part of the content of national power

and military operations are channels for its use. However, military intelligence itself has developed in a separate and distinct fashion from that of the broader field. In fact, its early history is so much more definite and clear that it could be argued that the broader art is but an expansion of the military nucleus.

Never is the advantage of good, and the calamity of bad, intelligence more manifest than in war. Consequently, the values of intelligence have been well understood by the great Captains of the past as well as given full consideration by military theorists and doctrinaires. As a result, it has developed certain characteristic procedures — or even doctrines — which are generally understood if not always practiced by all military intelligence agencies.

Such doctrine is unique to the military services and is designed to be used within the basic frame of reference of their intelligence problem; that is, the enemy is *always known*, and the commander always has a mission in relation to that enemy. Intelligence interest focuses not on just *any* information of the enemy, but on that intellingence which has *effect on own mission*. Accordingly, the philosophy of this doctrine is an *exclusive one*.

The broad general field of intelligence, such as the national type, has had a more vague and irregular past, and has not developed any comparable doctrine. Yet so strong is the influence of established methods that there is a strong tendency to apply military procedures in the formulation of its conclusions; this often causes confusion to both its producers and its users. For, although it might be argued that national intelligence is but a broader and higher form of military intelligence, there are actually more basic differences than those of breadth and degree.

The sources of power and the intentions of those that manipulate it — and also the focus of interest — of the national type

intelligence has many hidden ramifications. At the same time, it cannot always be recognized just where the national interests lie or what are the national policies for their support; in fact, the political leader is sometimes unable to positively identify his enemy or even to know what he wants to do about a probable one. While this may confirm a suspicion long held by his opposition, it nevertheless poses a formidable problem to his intelligence service which thus has no standards for the appraisal of relevancy in its collection activities, nor for formulation of conclusions in its interpretive processes. Consequently, the philosophy of national intelligence is *inclusive* as opposed to the *exclusive* nature of military intelligence, and its methods of derivation and presentation are variable rather than regular. The important point to keep in mind about the intelligence of the broad type is that its conclusions, which often concern peace and war, should not be read through military glasses.

I have discussed the general character and background of the wider intelligence fields at some length in order to emphasize the special and restricted character of command intelligence which I will take up next.

A commander's need for accurate and adequate information of the enemy is basic. The transformation of such information into intelligence — and its introduction into a commander's appreciation of his situation and into the formulation of his plans — epitomizes the intelligence function of command. It has been the subject much studied in the past by military logicians and theorists, and in modern times has developed definite procedure which it is necessary that you understand.

Whether with the aid of a large staff or by doing what comes naturally, a commander, in solving a military problem or

in making a decision, must consider two elements which might be said to have opposite polarities in relation to his end in view. One of these elements is oriented towards the enemy and is usually designated the *intelligence element*; the other is usually designated the *operational element*. Such designations, of course, are in terms of the broad division of staff functions.

The logical basis of the decision-making process, and the soundness of the decision itself lie in weighing the effects of these two elements against each other, and in the final integration of the result. This process is greatly complicated by the fact that while the values of the operational element are known and finite those of the intelligence element are never so to the same degree. In fact, these latter values are usually available only in gray tones and in terms of limits, as I have previously pointed out. Obviously, because of this difference in clarity as well as in orientation, the same procedure cannot be used to handle both elements in the command process. Therefore, intelligence procedures and theories have been developed to derive and present the intelligence element in a manner that meets the requirements of the over-all decision making process.

If no information of the enemy is available, the commander in reaching a decision would have to assume that he was the enemy and deduce the enemy's mission in order to provide the necessary intelligence element. (This situation has by no means been unknown in the history of naval warfare; Nelson before the Nile is a good example).

However, deduction of an enemy's mission is not always possible, so that the commander may be forced to accept some substitute therefore — such as the enemy's broad objective, which

can usually be determined from the nature of the war. Be this as it may, the prime requirement in such a situation is that whatever is used for the enemy's mission encloses reality. If this is unreal, so is the whole estimating process that follows.

Previous to the 20th Century, naval commanders — especially ours and the British — were acutely conscious of how often in the past adequate information of the enemy had been lacking. They were therefore cautious about allowing themselves to rely on the availability of such information in their decision-making or estimating procedures. Intelligence, when available, was to be used to indicate and confirm rather than as a prime basis of solution. This philosophy led, naturally, to the use of some form of derivation of the enemy's mission. Therefore, intelligence emphasis was placed on search for indicators of "What the enemy was doing" or "What he was going to do" in order to narrow the field of the commander's enemy considerations. This whole general process is sometimes called the *Theory of Intentions.*

While in great disrepute in some circles, this procedure is not a heinous crime. It is constantly being used under different names by those who condemn it. Actually, it is probably the only procedure that can be effectively used when information is meagre.

But for the following discussion let us assume that we have adequate information of the enemy. Then any system of interpretation which is based primarily on a derivation of the enemy's mission is undesirable for two reasons: *First,* the system is bound to present enemy considerations in too narrow a form for arriving at a sound decision. The commander's interest is not confined to what the enemy will *probably do* — probabilities may vary. His interest is not confined to what the enemy intends to do — *inten-*

tions may change. The true parameter of the commander's interest lies in the inclusive question: "What can the enemy do that will affect my mission?"

Second, the system can easily lead to subjective conclusions about the enemy. Although it is not inherent to it, there is a strong tendency by those who use it to disregard intelligence that does not support preconceived ideas of enemy action or which is not favorable to their own pet courses of action.

I should like to digress at this point to observe that all of this does not mean that determination of the enemy's intentions is unsound and must not be used. It simply means that intentions are tricky and, if used, their innate weaknesses must be realized and guarded against. Thus, even if an enemy's plan is captured and his mission and intentions are clear, this should not preclude the consideration of other things that the enemy *might* do. The weight given such intelligence should be in proportion to confirmatory evidence that things are going according to plan — for deception has been practiced, and plans have been changed or not correctly executed.

The dangers of trying to "out-guess" the enemy have been marked by many unhappy incidents of history. It was not until the advent of modern staffs that an attempt was made to prevent this by introducing a system of logical appreciation of available intelligence and to determine *what the enemy could do rather than what he was going to do.* This system has been called the *Theory of Capabilities.*

In this country, the Army took the lead in this development — partly because they were the first to adopt a modern staff system and partly because, from the innate nature of his operations,

an Army commander could expect the minimum intelligence requirements necessary for its implementation.

The Navy, on the other hand, has been very conservative in adopting it. In the past, studies have been made here at the War College and various naval writers have discussed it, but it was not until after World War II that naval staff manuals began to recommend it as a basic procedure.

To understand the current version of the *Capability Theory*, it will be necessary to throw your dictionary overboard and keep in mind two special definitions of the terms "enemy possible course of action" and enemy capability."

An "enemy possible course of action" is defined as *a course of action that the enemy may adopt if he finds it has merit, if he is physically able to undertake it, and if it suits his apparent mission.* Of course there are many possible courses of action which an enemy can undertake which will not be of interest to a commander.

An "enemy capability" is *an enemy course of action which he may adopt, and which, if carried out by him, will affect our mission favorably or unfavorably.* It is important to understand that within the terms of this definition you cannot have an enemy capability without a mission of your own — it is a "no tickee, no washee" situation. Thus, the difference between an enemy capability and an enemy possible course of action derives from your own mission — *not* that of the enemy.

The general philosophy of the Capability Theory is that enemy possible courses of action can be determined from intelligence available, and from the enemy's point of view. Once these

have been derived, their individual effect on our mission can be ascertained and the resulting capabilities arranged in an order of probability. These enemy capabilities can then be used both as an anvil — against which our own courses of action can be hammered into shape — and a scale, on which they can be weighed.

The first step in the method of capabilities is, as we have seen, the determination of enemy possible courses of action. Although it is rarely emphasized, this step is just as important as the determination of capabilities because it serves to delineate the whole field of subsequent operations. The courses of action themselves should be derived from intelligence — not from the imagination. In deriving them, all intelligence available must be considered for its bearing on: the enemy general situation, his strength and disposition, his fighting efficiency, his intentions, his probable objectives, his knowledge of our forces, and his estimate of our capabilities and intentions. From study and analysis of these factors, certain courses of action should progressively emerge — each of which meets the requirement of being possible to the enemy.

It should be noted that in this initial process both enemy intentions, probabilities and our opposition capabilities are used. The rule of thumb here is that anything goes — provided it appears that it can be seen through the enemy eyes.

It is not generally realized that the basic intelligence error before Pearl Harbor was not so much that we did not give the Japanese credit for the capability of attacking Pearl Harbor — we did that. It was that we were so impressed with their many capabilities (what they could do to us) that we overlooked what they thought we could do to them. They had a big overestimate of the United States Fleet; they gave it a capability of interfering

with their projected operations in Southeast Asia. Therefore, when Admiral Yamamoto made his estimate for operations against the Kra Peninsula, he considered that, as his first step, he had to neutralize the United States Fleet wherever it was — and he carried it out. Looking back, there are all sorts of evidences that pointed to such a Japanese over-estimate.

If we had realized this, we would have been driven logically to predict a Pearl Harbor, Lahaina or San Diego "disaster" — wherever the Fleet was.

As enemy possible courses of action begin to emerge from the synthesis and analysis of the first step, they should be tested against your own mission and either discarded, or further tested for determination of enemy capabilities. This process is not necessarily a formal written procedure. In practice, it is generally carried out mentally — proceeding in a shuttle-like fashion with the development of possible courses of action. The important difference between the two steps should always be kept in mind: the first step — possible course of action — is made entirely from the enemy point of view; the second — capabilities — includes the consideration of our own purpose and aims.

A list of the capabilities, no matter how complete, lacks the force and direction necessary for a commander's guidance in making his decision. Therefore, available intelligence is next examined for evidence of the probability of each capability; and then an order of relative probabilities is determined. This, of course, can be done only if there is enough objective evidence to support such a determination.

Such, generally, is the current method of capabilities as used in an estimating procedure. It actually is a misnomer as both inten-

tions and probabilities are considered directly in derivation of an enemy possible course of action and by implication, in listing capabilities, in the order of their probability. Actually, the whole method is a series of progressive integrations of intelligence aimed at insuring the commander an *inclusive* picture of the enemy from which to make a decision and an objective scale upon which to test his own resources.

Before leaving capabilities and intentions, I should like to warn you that these and related terms are often grossly misused; a fetish has been made of the word "capability," and "intention" has almost become an indelicate term. Some people, attempting to avoid bad taste, label everything "capabilities," and others use "capabilities" as synonomous with "imagination." Be sure your capability is not an intention.

Previous to the advent of modern staff systems, enemy information was the jealously guarded province of the commander although Julius Caesar is reported to have had officers called "speculators" who handled intelligence matters. This was unusual. The more usual procedure was for the commander and his chief scout or spymaster to keep their business strictly to themselves. All interpretation was done by the commander himself, or his principle aides, as part of the overall function of command. It was not until the development of the French staff system in 1796 that the distinct nature of the intelligence function of command was recognized. Since then it has developed along with other staff functions, but conmmanders have frequently been reluctant to delegate it. Even such a relatively modern commander as T. J. Jackson kept his intelligence (and also his plans) to himself. However, this is no longer possible. In these days of large staffs, the intelligence division must supply the enemy point of view to other staff sections

as well as to the commander. At the same sime, it must direct its activities in the light of their reaction so that an adequate and integrated picture is available to the commander at all times.

The solution of a military problem and the selection of courses of action are matters of vital importance in war. The problems are complex and the stakes high. To insure logical and sound decisions by a commander without dependence on individual genius, modern staff systems and procedures have been developed. Their philosophy might be stated succinctly as "the contribution of many minds to the decision of one."

There are two well-defined steps in the process by which a commander and his staff reach a solution of a military problem: the *Estimate of the Situation* and the *Development of the Plan.* In both steps the intelligence function of command is apparent. It is epitomized by two documents that are more or less formally prepared by the intelligence division for use in the over-all process. These are the *Intelligence Estimate* (which is a necessary foundation for an Estimate of the Situation) and the *Intelligence Annex* (which is a part of a plan, or order).

You will be required to deal with both of these later in your course. Full instruction will be given for their preparation and use so that I shall discuss only their highlights.

However, before getting into a discussion of the intelligence estimating and planning process, I should like to emphasize that at the best I am only presenting a slow-motion study. Actually, the intelligence function, like command, is continuous. It commences with establishment of command and continues in peace and war for the life of the command. It is therefore wrong to think of intelligence in planning and estimating as a box which you don't start

to fill until the planning directive turns up. The commander should be kept constantly informed by his staff of all developments within and without his area of interest which may have impact on his command. Thus, long before the receipt of the directive, planning concepts should have been "roughed out" to meet possible contingencies. After a plan is completed, the process of re-examination and amendment continues as long as the plan is effective.

Now, the formal decision-making process starts upon receipt or derivation of the commander's mission. The first step the commander takes is to analyze his mission and determine his objectives and their priority. In this, he is aided by his whole staff. Intelligence plays an important role by supplying specific enemy vulnerabilities and a general picture of the enemy.

Once the mission has been analyzed and the commander's objectives determined, his staff intelligence division prepares the *Intelligence Estimate.*

Right here I would like to point out that the *Intelligence Estimate* is *not* an Estimate of the Situation. It is used in the preparation of one. It is *not* an Intelligence Annex because this is part of the Plan.

The Intelligence Estimate should provide the commander and his staff with a sound knowledge of the enemy situation as it affects their own. It computes the enemy capabilities — that is, once again, his capacity to interfere with the accomplishment of the commander's mission — and lists them in order of probability. Thus, by the use of the Intelligence Estimate the commander and members of his staff are made aware of those enemy capabilities that affect their own. From the interplay of the information thus

presented and the operational contributions of the remainder of the staff, the commander makes his Estimate of the Situation — and makes his decision.

The intelligence Estimate — because of its usefulness to all of the staff — is usually written out formally, and then amended and corrected as the situation unrolls. It is arranged to meet the needs of its customers. Its various parts can be extracted for inclusion in the Estimate of the Situation.

Time is of the essence in preparation of an Intelligence Estimate. It has been my experience that you have from two hours to two days. Consequently, it should be confined to a bare statement of fact with a minimum of discussion. In fact, in some commands it is not written out but is made orally in the discussion between the commander and his staff in reaching a decision.

Like the Estimate of the Situation, the Intelligence Estimate cannot escape the personality of the commander. The important thing to remember is not the details of how it is done, but the philosophy behind it. It should always provide an objective picture of the enemy situation and the logical conclusions to be drawn therefrom. To accomplish this, the shuttle between intelligence and the rest of the staff must be continuous, irrespective of any prescribed steps.

Once a decision has been made and development of the plan gets underway, the intelligence division prepares the *Intelligence Annex*. Some Annexes weigh thirty to forty pounds for they should contain all those things that subordinates need to know to carry out the tasks assigned them as well as the intelligence the commander must have to carry out his mission.

The content of the Annex falls into two broad categories: data concerning the enemy and the theater of operations of immediate concern to all units of his force, and plans and directives for the conduct of intelligence activities. Data of the first sort are in reality just an expansion of the Intelligence Estimate and will not be discussed. Of the remaining part of the Intelligence Annex, the Intelligence Directives and Plans, only that part known as the Intelligence Plan requires explanation.

The heart of the Intelligence Plan is known as the *Essential Elements of Information*, or *EEI*. There has always been some misunderstanding as to just what these are. Actually, they are very simple. By definition, *they are requirements for information essential to completion of the commander's mission and which are not available within his Intelligence Division.* They are posed in the form of positive questions, such as: "Will enemy Task Force *X* attempt to intercept our Expedition *M*?" They are accompanied by statements of indications which, if known, would contribute to the answer to the question asked, such as: "The presence of planes from *X* Force Carriers, position of *X* Force on our probable line of advance," etc.

The EEI serve two important purposes. They notify all collecting agencies, including those of superior and adjacent commands, what is wanted and they focus the attention of all hands on the critical unknowns upon which successful accomplishment of the mission hinges.

Once the EEI are defined and approved by the commander, intelligence tasks and their priority may be developed. This is by no means a list of passive measures but often requires active operations. Because of this, it is important that a commander follow

the development of his EEI and his Intelligence Plan closely, and ensure the participation of his whole staff in their preparation. Its accomplishment may require the use of forces and facilities not under the cognizance of intelligence.

Here, at the War College, your command collection activities are necessarily artificial. If sufficient intelligence is not furnished you for your work, you supplement it by research in the Library and interrogation of visiting lecturers. Your EEI's should be simple, direct, and limited. However, this will not be true in case of war — especially, in the initial stages. Lists of EEI's will be much larger than your course here might lead you to expect. Furthermore, it is probable that if essential intelligence cannot be secured from outside sources, the commander will have to undertake operations to obtain it himself. This means reconnaissance operations of some kind. Because of this, it may be expected that many of the initial operations of war will be largely concerned with the procurement of information.

In the intermediate and lower echelons of command, such plans will have to be coordinated with higher and adjacent commands because in such operations the conflicting interests of disclosure of our plans and intentions must always be weighed against the need for intelligence for operations and planning.

From your experience with command and intelligence problems, it should be apparent that I have covered all of the commander's intelligence functions. Such matters as his collection responsibilities and procedures, his dissemination problem and the character of his intelligence organizations, I will leave for your further study.

This has been an introduction to command intelligence. It will have accomplished its purpose if it has made clear to you

that while national intelligence is an element of power, military intelligence is a function of command. It is a function which is oriented towards the enemy point of view. In operation and doctrine it must be flexible. Defeat is too high a price to pay for uniformity. Consequently, what I have said here expresses current thinking and past experience rather than a rigid set of dogmas.

If, in your command thinking, you can introduce the enemy picture so that it will stand the test of logic from his point of view — not from yours — you will have gone a long way towards the mastery of the art of command intelligence.

BIOGRAPHICAL SKETCH OF LECTURER

Captain George R. Phelan, U.S.N. was graduated from the U.S. Naval Academy in 1925 with a B.S. degree.

As a junior officer he was assigned various division duties in battleships and destroyers and from 1929-30 was District Intelligence Officer, Third Naval District. He served as Assistant Fleet Intelligence Officer, Asiatic Fleet, from 1933-38 and was assigned to the Far Eastern Desk in the Office of Naval Intelligence from 1938-39. During the early part of World War II Captain Phelan was Commanding Officer of the USS TRACY, the USS AYLWIN, and the USS TERRY and Commander, Destroyer Division Eight. In 1944 he returned to the Office of Naval Intelligence where he remained until 1949, serving first as Head of Technical Intelligence and then Head of the Intelligence Staff. He served as Commander, Destroyer Squadron Five, and then was assigned to the Staff of CINCPAC/CINCPACFLT, where he served as Fleet Intelligence Officer and J-2 until 1951.

Following other intelligence duties Captain Phelan reported to the Naval War College in 1952 as a student in the Course of Advanced Study in Strategy and Sea Power, his present assignment.

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RECOMMENDED READING

The evaluations of books listed below include those recommended to resident students of the Naval War College. Officers in the fleet and elsewhere may find these of interest.

Many of these publications may be found in ship and station libraries. Some of the publications not available from these sources may be obtained from the Bureau of Naval Personnel Auxiliary Library Service, where a collection of books are available for loan to individual officers. Requests for the loan of these books should be made by the individual to the nearest branch or the Chief of Naval Personnel. (See Article C-9604, Bureau of Naval Personnel Manual, 1948).

Title: *The China Tangle.* 445 p.

Author: Feis, Herbert. Princeton, N. J., Princeton University Press, 1953.

Evaluation: The China Tangle is a factual account of the American effort in China from 1941 to 1946. By and large, Mr. Feis restricts himself to the facts and events as he sees them, but enlivens the book with his own opinions at pertinent stages. The book is excellently written, with a background of authority and experience, since the author had access to official records of the State Dpartment in their original form. There are some interesting new views on the conflicting opinions within the American government as to the proper policy with respect to China, as well as valuable background material on our wartime conferences, and the deepening rift between the U.S.A. and the U.S.S.R.

Title: *How Russia Is Ruled.* 575 p.

Author: Fainsod, Merle. Cambridge, Harvard University Press, 1953.

Evaluation: In his book How Russia Is Ruled, Professor Fainsod gives the history of communism in Russia from its beginning to

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the present, tracing its meteoric rise from a small band of revolutionaries to the present dictatorship of the proletariat. In 500 pages of easily readable material, the author shows how determined communists have, in the span of fifty short years, built a classless and materialistic state capable of threatening Western civilization. This book is well worth reading for anyone who desires historical information about the internal political control of the Soviet Union.

Title: *The Undeclared War,* 1940-1941. 963 p.

Author: Langer, William L. and Gleason, S. Everett. N. Y., Harper & Bros., 1953.

Evaluation: An authorative work on American foreign policy and the problems and background of its development during the two crucial years before Pearl Harbor. It follows logically and chronologically the author's earlier volume, **The Challenge to Isolation, 1937-1940,** and is the second volume of their study of **The World Crisis and American Foreign Policy.** A historical research study, it is objective in point of view, thorough in research, and sound in its conclusions. The authors are recognized authorities in their field and have had access to much original source material. This volume and its companion one, **The Challenge to Isolation,** will take their place as historians' reference works on American foreign policy for the period 1937-41 in the same manner as Langer's **European Alliances and Alignments, 1871-1890,** and **Diplomacy of Imperialism, 1890-1902,** have become standard for the imperialistic period of the latter part of the nineteenth and early part of the twentieth century.

Title: *Report on Mao's China.* 212 p.

Author: Moraes, Frank. N. Y., The Macmillan Co., 1953.

Evaluation: The report of an extended visit to Red China by the editor of an Indian newspaper, as a member of a "cultural" mission invited to study the progress of the Red government in China. An interesting and fairly objective report of the visit, it actually is a statement of how India sees Red China in the light of their relative power positions in Asia. Obviously, the group of which the author was a member saw only pre-planned exhibits and instructed

Chinese. However, it appears that the author also uncovered and evaluated reasonably factual information regarding Chinese communism, its past, present, and future. He indicates that Chinese Titoism may be exploited, and that the basis for such exploitation exists. The concluding chapters are typical of the vague role which India has taken, and in the comparisons between the West, China, and India the reader may see some of the illusions which trouble Asia — internally and externally. Recommended reading for those interested in the present and future situation in Asia, as well as the means used to spread communism in China.

Title: *The U. S. and Latin America.* 62 p.

Author: Matthews, Herbert L. N. Y., Foreign Policy Association, Inc., 1953.

Evaluation: Herbert L. Matthews, member of The New York Times editorial staff covering Latin American affairs, gives in this pamphlet a brief yet searching analysis of the historical, economic and political relations between the U. S. and Latin American countries. Emphasizing that economics is the major basis for inter-American relations, Mr. Matthews sketches the importance of fostering a viable and equitable trade system within the hemisphere. The considerable U. S. dependence on Latin America for strategic raw materials and markets for manufactured materials is clearly set forth. Varied degrees of political stability and maturity within the Latin American countries are discussed in the light of how these affect intrahemispheric relations and why we should understand them better. The increasing acceptance by Latin America of democratic ideas, and the betterment of the individual's social and economic lots are used as bases for policy recommendations. The latter part of the pamphlet is a series of thumbnail sketches of the twenty Latin American nations, of the peoples, their governments and their social and economic conditions. General knowledge of this type should be an integral part of every senior officer's understanding of world politics and economics. It is considered excellent as a source for the broad background type of information.

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Title: *North.* 237 p.

Author: Rodahl, Kaare. N. Y., Harper & Bros., 1953.

Evaluation: Dr. Rodahl has produced an extremely readable volume on life in the far north, drawing largely from his experiences as a member of the Air Force expedition to T-3, one of the larger ice islands of the Polar Basin. The author had previous wide experience in other Arctic areas, as well. There are introductory chapters on history of polar research, biology of the Polar Basin, animal life, and background geographical information. The book is non-scientific, written in easily understandable language, and one of the most interesting volumes to appear in recent times about this facinating and, today, strategically important area. One of the few publications available to the public on the subject of ice islands.

Title: *The Future of the West.* 178 p.

Author: De Beus, Jacobus G. N. Y., Harper & Bros., 1953.

Evaluation: The author, who is the Minister of the Netherlands Embassy in Washington, compares the cyclical philosophies of history as set forth by Nikolai Danilevsky, Oswald Spengler, and Arnold Toynbee. He favors Toynbee's theory, and concludes that although Western civilization is about to enter its last and possibly greatest phase, it is far from perishing. He is optimistic on the possibility of Western civilization meeting its greatest challenges: (1) European disunity, (2) Asian nationalism, and (3) communism. This book is of value, particularly as a review of the cyclical philosophies of history, and also as a reminder that communism is only one of the dangers to Western civilization.

Title: *From Down Under to Nippon.* 393 p.

Author: Krueger, Walter, General, U.S.A.

Evaluation: General Krueger presents a detailed, chronological account of the operations of the Sixth Army and its components from its activation at Fort Sam Houston on 25 January 1943 to its inactivation in Japan three years later. Each operation is discussed in detail, emphasizing the manner in which planning and execution were accomplished. Naval

and air operations are included to the extent necessary for continuity. An excellent portrayal of centralized planning and decentralized execution, this book makes reference to the strategic planning done on the theater level; shows how tactical planning and coordination with naval and air forces was effected on Sixth Army level; and, how execution was accomplished on subordinate army levels. The Leyte and Luzon operations are excellent examples of large land mass operations which had their inception in amphibious landings.

Periodicals

Title: *Spanish Bases: Good Insurance?*

Publication: U. S. NEWS & WORLD REPORT, September 18, 1953, p. 40-44.

Annotation: A report on the value to U. S. security of U. S. naval and air bases to be constructed under the U. S. agreement with Spain. (Maps, p. 40-41 and 44).

Title: *The Heritage of Douhet.*

Author: Brodie, Dr. Bernard.

Publication: AIR UNIVERSITY QUARTERLY REVIEW, Summer, 1953, p. 64.

Annotation: An analysis of the writings and theories of strategic air power's first great advocate, General Guilio Douhet.

Title: *An Open Look at Secret Diplomacy.*

Author: Nicolson, Harold.

Publication: THE NEW YORK TIMES MAGAZINE, September 13, 1953, p. 17, 47-48.

Annotation: A British student and practitioner of diplomacy attempts to set out what diplomacy really means and to indicate how it might be employed so as to produce the most fruitful results.

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Title: *Flying Windmills in Korea.*
Author: Montross, Lynn.
Publication: MARINE CORPS GAZETTE, September, 1953, p. 17-25.
Annotation: Gives a little background history of helicopter doctrinal development in the Marine Corps and briefly reports on helicopter operation in Korea, showing the successive uses and the results achieved.

Title: *East-West Trade: Russia's Sham Weapon.*
Author: May, A. Wilfred.
Publication: UNITED NATIONS WORLD, September-October, 1953, p. 47-50.
Annotation: Contends that Russia's bid for resumption of East-West trade is a propaganda device intended to split the Western alliance and presents evidence that communist markets are non-existent.

Title: *Will Japan Bow to the East?*
Author: Smythe, Hugh H.
Publication: UNITED NATIONS WORLD, September-October, 1953, p. 38-42.
Annotation: Considers Japan's economic and diplomatic position, concluding that Japan will strive to rebuild friendly relations with Russia and Red China and to develop substantial trade with them.

Title: *The National Security Council.*
Publication: ORDNANCE, October, 1953, p. 242-243.
Annotation: Analyzes the functions and membership of the National Security Council, which has become a basic vehicle in adjusting national strategy with the foreign and domestic needs of the U. S.

Title: *Organizing for Defense.*
Author: Duffield, Eugene S.
Publication: HARVARD BUSINESS REVIEW, September-October, 1953, p. 29-42.
Annotation: The stated business of this article is to explain the fundamental characteristics of the Defense Department in

a businessman's terms; to show how each major reorganization in the past six years has attempted to meet these fundamentals and to evaluate the degree of success or failure to do so.

Title: *Current Practice in Air Defense.*

Author: Smith, Frederic H., Jr., Major General, U.S.A.F.

Publication: AIR UNIVERSITY QUARTERLY REVIEW, Summer, 1953, p. 31-39.

Annotation: The conclusion of a two part article by Major General Smith of Air Defense Command points up significant changes in philosophy engendered by the introduction of weapons of mass destruction, delivered by aircraft with ever-improving performance. (Part I, on basic actions common to any air defense system, appeared in the spring issue).

Title: *The Fateful Race Between China and India.*

Author: Ward, Barbara.

Publication: THE NEW YORK TIMES MAGAZINE, September 20, 1953, p. 9, 64-67.

Annotation: Discusses the plans for economic modernization going forward in India within the framework of democracy and in China under totalitarian dictatorship, pointing out that in the long run it may be the decisive struggle in Asia.

Title: *Annual Review of Naval Aviation.*

Publication: THE NAVY (Great Britain), September, 1953.

Annotation: This entire issue is devoted to the Fleet Air Arm of the Royal Navy.

Title: *Europe After Stalin.*

Author: Einaudi, Mario.

Publication: THE YALE REVIEW, Autumn, 1953, p. 24-36.

Annotation: Considers changing political conditions in Western Europe and proposes that the European Political Community come before the European Defense Community and that NATO be relied upon for the military defense of Europe until agreement can be reached in the Defense Community.

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Title: *Territorial War: The New Concept of Resistance.*

Author: Kveder, Dusan, Lieutenant-General, Yugoslavian Army.

Publication: FOREIGN AFFAIRS, October, 1953, p. 91-108.

Annotation: General Kveder of the Yugoslavian Army, graduate of the Voroshilov Academy in Moscow, and a lecturer at the Naval War College in 1953, proposes as an alternative to surrender: a defensive doctrine in the form of mobile "territorial" war for consideration by countries who do not as yet possess the means for repelling "aggression at their borders." Current U. S. doctrine recognizes similar prerequisites. General Kveder has, in essence, amplified these. His ideas bear marked resemblance to those expressed by Liddell Hart in Defense of the West.

Title: *Airborne Assault by an Infantry Division.*

Author: Kinzer, John M., Lieutnant Colonel (Artillery), U. S. A.

Publication: MILITARY REVIEW, October, 1953, p. 45-53.

Annotation: An examination of the feasibility of conducting limited-objective airborne assault operations, employing the infantry division and helicopters.

Title: *Indochina — The Seven Year Dilemma.*

Author: Fall, Bernard B.

Publication: MILITARY REVIEW, October, 1953, p. 23-35.

Annotation: Describes the war in Indochina, which will be seven years old this December, and points out that more aggressive action is required to prevent a stalemate similar to the one in Korea.

Title: *Echoes of Militarism in Japan.*

Author: Kinoshita, Hanji.

Publication: PACIFIC AFFAIRS, September, 7953, p. 244-251.

Annotation: An account of the activities of former service personnel in post-war Japan which the author feels might afford a clue to the nature of future Japanese policies.

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Title: *The Kremlin's Foreign Policy Since Stalin.*

Author: Mosely, Philip E.

Publication: FOREIGN AFFAIRS, October, 1953, p. 20-33.

Annotation: A critical interpretation of recent Soviet foreign policy. Premise of article is that Soviet policy has not changed in any significant sense and that, if anything, the dangers to the West "are definitely not on the wane, but are increasing."

Title: *Defense and Strategy: U. S.* vs. *Soviet Technology.*

Publication: FORTUNE, October, 1953, p. 55-60, 65.

Annotation: A report based in part on observations of Colonel Robert H. Orr, Fifth Air Force's chief of combat operations in Korea, is presented as "an illuminating picture of Soviet military technology, management, logistics, resources, and organization." (Geography of air-holding action, p. 56).

Title: *Our Navy in the Far East.*

Author: Radford, Arthur W., Admiral, U.S.N.

Publication: THE NATIONAL GEOGRAPHIC MAGAZINE, October, 1953, p. 537-577.

Annotation: An illustrated article summing up impressions of American naval activities from the Sea of Japan to the South China Sea, formed during a four-year tour of duty as Commander-in-Chief of the Pacific Fleet.

Title: *The Grand Alliance Hesitates.*

Author: Armstrong, Hamilton Fish.

Publication: FOREIGN AFFAIRS, October, 1953, p. 48-67.

Annotation: Brief survey of the background for some of the basic causes of disagreement within the Western coalition. Special attention is directed upon those differences between British and American requirements to be met in any future settlement with the Soviet Union.

WHAT SITUATION?

"Our service schools go to great lengths to teach the *estimate of the situation*, with considerable emphasis on the *estimate*, but without much consideration of the *situation*. When a commander, in battle, estimates the situation, he should realize that there are at least five situations existing at that time. There are: the true situation, the situation as seen by our own commander, the situation as seen by the enemy commander, the situation we think the enemy sees, and the one he thinks we see."

— MILITARY REVIEW