

Oswald Jacoby's Court Marshal

By Myron L. Gordon

Oswald Jacoby was surely one of the brightest stars in the history of bridge.

However, many of his admirers do not know that he was prosecuted and stood trial for his conduct in connection with card games. I was the lawyer who defended him.

The time was 1944; the place was Pearl Harbor, Hawaii. Lieutenant Commander Jacoby was on duty there as a member of the Navy's intelligence section. Admiral Chester Nimitz was the commander of all the naval forces in the Pacific theater of operations during World War II. Jacoby and I were both under his jurisdiction. It was Admiral Nimitz's decision to order Jacoby to face a military court martial on two charges:

- (1) the crime of gambling and
- (2) conduct unbecoming an officer and gentlemen.

The charge of gambling stemmed from Jacoby's arranging poker games for naval officers who had returned to Pearl Harbor after long periods of bombing Japanese controlled islands in the Pacific. Jacoby would readily plead guilty to the gambling charge, but he refused to accept the validity of the accusation of "conduct unbecoming". There was never any suggestion or slightest hint that Jacoby had cheated any- one in the games. He won more frequently because of his inherent skill in playing cards. Although gambling is technically prohibited by Navy regulations, everyone wholly ignores that restriction. I have never heard of any other prosecution for gambling. Both officers and enlisted personnel regularly play card games for money and they would be shocked to learn it was punishable.

"Conduct unbecoming an officer" is an ambiguous charge, and generally relates to acts which bring disgrace to the Navy. Most service- men would laugh at the thought that playing cards for money is some type of disgraceful conduct.

The court martial proceedings were held before seven high-ranking officers, five of whom were admirals or generals. All were regular career Navy men, although Jacoby (and I) were reserve officers. It was an imposing tribunal and a bit heavy for this 27-year-old lieutenant (senior grade). I met regularly with Jacoby during the weeks before the trial. I found Jacoby very intent upon his insistence on fighting the "conduct unbecoming" charge with vigor. We found it helpful to call officers familiar with naval prosecutions who would be available to attest their legal opinion that Jacoby's demeanor had no proximity to unbecoming conduct. We also sought out officers who had participated in the games who would comment that the games were wholesome and honest.

The trial lasted two full days. The prosecutors' evidence was that the games involved high stakes and that some players lost large sums. There was testimony that Jacoby organized the poker games, a fact that Jacoby admitted when he gave his testimony, but he went on to explain that it was arranged because the other players requested it. Jacoby acknowledged that as a professional actuary he had a good grasp of the game, that the "pots" were sometimes sizeable, and that he won more often than he lost.

The members of the court marital retired after hearing all the evidence and arguments of counsel. They returned a unanimous verdict finding him guilty of gambling and imposed a fine of \$200.00. They

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acquitted him of the charge of conduct unbecoming an officer.

Jacoby was delighted with the result. The punishment was very light and it demonstrated that these seasoned officers on the court were experienced in the way military personnel spent some of their leisure time and money. To put it another way, the judges used their common sense.

Another regulation of the Navy is that the judges in a court martial are to exercise their judgment without fear of any reprisal as to their own careers. Nevertheless, Admiral Nimitz was so disturbed by the verdict that he entered a formal reprimand in the record of each of the seven members of the court.

My client thanked me for my legal services and, as my fee, presented me with an autographed copy of his book entitled Jacoby on Poker.

My more thrilling "fee" consisted of getting to play bridge with him five or six times during the weeks we were together preparing for the trial.