

MILITARY AFFAIRS

COMMAND OF THE ARMY

By

Archibald King, Col., JAGD, Retired



THE JUDGE ADVOCATE GENERAL'S SCHOOL
U.S. ARMY

THE COMMAND OF THE ARMY

A Legal and Historical Study
of the Relations of the President,
the Secretaries of War and the Army,
the General of the Army, and the Chief of Staff,
with one another

By

Archibald King, Colonel, JAGD, Retired

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P R E F A C E

"Command of the Army" was written in 1949 by Colonel Archibald King, USA, Retired, as a part of his duties as a member of the group that drafted the Army Organization Act of 1950.¹ It has been reproduced by The Judge Advocate General's School for use as a reference document in the study of the organization of the United States for national security. As noted in the "Foreword," the opinions and conclusions expressed are those of the author and do not necessarily represent the views of this School, The Judge Advocate General of the Army, the Department of the Army, or any other governmental agency.

The author is a distinguished and scholarly Army judge advocate, who served on active duty in both World Wars, retired for age in 1942, but served thereafter on recall to active duty some addition eleven years, probably an all-time record, and for a time thereafter as a civilian consultant to the Department of the Army.² He has published numerous articles on military law and international law.

Colonel King began his long and distinguished military career in April, 1914, when he enlisted as an Infantry private in the District of Columbia National Guard. He served on the Mexican Border in 1916 and 1917, rising to the rank of first sergeant. In April, 1917, he received a commission as a second lieutenant, Infantry, District of Columbia National Guard, accompanying the American Expeditionary Forces to France in December, 1917. Upon the conclusion of hostilities, he was commissioned a captain, Judge Advocate General's Department, and in 1919 was promoted to the grade of major. In 1920 he became a major in The Judge Advocate General's Department of the Regular Army.

During World War II, Colonel King was Chief of the War Plans Division of the Office of The Judge Advocate General of the Army, later more accurately renamed the International Law Division. He was recalled to active duty by the Secretary of the Army in 1948 originally to assist in the drafting of the Army Organization Act of 1950, and upon its completion was retained on active duty to assist in the codification of all military legislation then in force, which ultimately became Title 10 (Armed Forces) and Title 32 (National Guard) of the United States Code.³

In the preparation of the Army Organization Act of 1950, which may now be found as the source of the majority of the law codified in Part I - Organization, Subtitle B - Army, of Title 10 of the United States Code, it was essential to examine closely the past and present organization and functioning of the top management of the Army. Of particular importance was an examination of the chain of command from the President, as the constitutional

Commander in Chief, through the newly created Secretary and Department of Defense, the Secretary and Department of the Army, and the Chief of Staff of the Army, to the major commands of the Army and all personnel therein, both military and civilian. It was considered important to examine the historical basis for the traditional policy of civilian control of the Army in order to delineate in particular the basic responsibilities of the Chief of Staff of the Army, his relationship to the Secretary of the Army, and whether the proper role of the Chief of Staff was that of a commander or staff officer. Although this staff study is not cited in the legislative history of the Army Organization Act of 1950, the conclusions reached herein appear to be those adopted in the enactment of those provisions of that act which deal with the functions, responsibilities, and duties of the Secretary of the Army and the Chief of Staff of the Army.⁴

Whether or not attributable to the force of the author's conclusions, some eight years later an identical relationship has now been created by the Department of Defense Reorganization Act of 1958⁵ between the Secretary of the Navy and his two principal military officers, the Chief of Naval Operations and the Commandant of the Marine Corps; and between the Secretary of the Air Force and the Chief of Staff of the Air Force.⁶

The manuscript has been reproduced as it was last revised by the author, except various portraits illustrating the original text were omitted. The charts which originally appeared throughout the text have been redrawn to a smaller scale and are collected at the end of the text. Appropriate changes were made to reflect this relocation in the Table of Contents and in footnote references.

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1. Act of 28 Jun 1950, ch. 383, 64 Stat. 263.
 2. See Fratcher, History of the Judge Advocate General's Corps, United States Army, Mil. L. Rev., April 1959 (DA Pam 27-100-4, 1 Mar 1959), p. 89, n. 92 at p. 110.
 3. Act of 10 Aug 1956, ch. 1041, 70A Stat. 641; see S. Rept. No. 2484, 84th Cong., 2d Sess. (1956), p. 15.
 4. 10 U.S.C. 3012, 3034; see H. Rept. No. 2110, 81st Cong., 2d Sess. (1950) and Conf. Rept. No. 2289, 81st Cong., 2d Sess. (1950), U.S. Code Cong. Service (1950), pp. 2607-2638. See also testimony of the Chief of Staff, Gen. J. Lawton Collins, Hearings on H.R. 5794 Before a Subcommittee of the House Committee on Armed Services, 81st Cong., 2d Sess. 6088-95 (1950).
 5. Act of 6 Aug 1958, PL 85-599, sec. 4, 72 Stat. 517; see 10 U.S.C. 3032, 3034, 5081, 5201, 8032, 8034.

(Footnotes continued)

6. See. H. Doc. No. 366, 85th Cong., 2d Sess. (1958), containing a letter from the President to Congress, 3 Apr 1958, transmitting administrative and legislative changes considered essential to the effective direction of the Defense Establishment, stating: "I consider (the existing) chain of command cumbersome and unreliable in time of peace and not usable in time of war. * * * I request repeal of any statutory authority which vests responsibilities for military operations in any official other than the Secretary of Defense. Examples are statutory provisions which prescribe that the Air Force Chief of Staff shall command major units of the Air Force and that the Chief of Naval Operations shall command naval operating forces."

F O R E W O R D

"Command of the Army" was prepared by direction of the Deputy Chief of Staff for Administration. Its author has been permitted to express freely the results of his research and analysis. His findings, conclusions, and recommendations have received no staff coordination or review by higher authority, and must not be considered those of the Department of the Army or of any office or division in it.

The study is submitted for the information of all concerned. It is believed that it will be helpful to those interested in the organization and functioning of the top management of the Army.

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I. THE PRESIDENT, THE SECRETARY OF WAR, AND
THE GENERAL OF THE ARMY, 1789 - 1903

A. LEGAL HISTORY

The President

The Constitution makes the President the Commander in Chief.

1. It is proper to commence with that document from which every officer of the United States, military or civil, from the highest to the lowest, derives every power which he exercises, the Constitution of the United States. Article II of that instrument deals with the powers of the President, and begins:- "Section 1. The executive power shall be vested in the President of the United States of America." Section 3 of the same Article says that the President "shall take care that the laws be faithfully executed". Section 2 comes nearer to our present topic when it says:- "The President shall be Commander in Chief of the Army and Navy of the United States."

2. In adopting the provision last quoted, the members of the Constitutional Convention presumably had in mind the chief of state with whose powers they were best acquainted, the King of England; who, according to the unwritten and customary constitution of that country, had by virtue of his office been commander in chief of its army since the foundation of the kingdom, nine hundred years earlier. Most of the sovereigns not disqualified by age or sex had exercised command in person. At the battle of the Boyne in 1690, less than a century before our Constitutional Convention met, each of the men who claimed to be King of England, James II and William III, personally commanded his own army. The sovereigns unable to command in person had done so through a lieutenant general, a title in which the word "lieutenant" is to be taken in its etymological sense, as meaning the general holding the place of the king, and subject to the king's orders.

3. The members of the Constitutional Convention were also familiar with the charters of the several colonies and the early state constitutions which had replaced most of them. Each of these made the governor commander in chief or captain-general of the militia.¹ When the governor did not command in person in the wars against the Indians or the French, he designated the officer who should do so. In 1781, only six years before the Convention sat, Thomas Nelson, as governor of Virginia, personally commanded the militia of that state at the siege of Yorktown, and directed their fire upon his own house, then being used as the headquarters of Lord Cornwallis.²

1. Bvt. Maj. Gen. James B. Fry, Military Miscellanies, pp. 78-80.

2. Dictionary of American Biography, article on Thomas Nelson.

4. It is therefore clear that the framers of our Constitution meant that the President should be a Commander in Chief in fact as well as in name.

The Secretary of War

He was Deputy Commander in Chief of the Army

5. The draftsmen of our national Constitution also contemplated that the President should have under him, as the King of Great Britain had in their time, governmental departments and ministers or secretaries presiding over them. This is shown by the fact that they wrote into Article II, section 2, immediately after the words last quoted, the following provisions:

"He" (the President) "may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices."

"The Congress may by law vest the appointment of such inferior officers, as they think proper, * * * in the heads of departments."

6. At its first session, the first Congress under the Constitution created four such principal offices, those of the Secretaries of State, War, and the Treasury, and the Attorney General. Others have been established by later statutes. The act creating the office of Secretary of War and the Department of War is that of August 7, 1789.³ The Secretary of War exercised control, not only over the Army, but also over the Navy, for nearly nine years, until April 30, 1798, when Congress created the office of Secretary of the Navy and the Department of the Navy.⁴ The National Security Act of 1947⁵ changed the titles of the Department of War and the Secretary of War to Department of the Army and Secretary of the Army, respectively.

7. As has been said, the Constitution provides that the executive power shall be vested in the President, that he shall take care that the laws be faithfully executed, and that he shall be Commander in Chief of the Army and Navy. The size and complexity of the governmental machinery, civil and military, and the geographical extent of the United States are so great that it is obviously impossible for the President to perform all these duties in person. President Lincoln said, "I could as easily bail out the Potomac River with a teaspoon as attend to all the details of the Army."⁶ In 1855 Attorney General Cushing, probably the ablest man who ever held that office, said:

3. 1 Stat. 49.

4. 1 Stat. 553.

5. Sec. 205(a), 61 Stat. 495, 501.

6. Fry, Military Miscellanies, p. 282.

"The President cannot, in physical sense, by his own mind determine both in principle and in detail, and in his own person perform, all the vast multiplicity of matters involved in the administration of the Government of the United States. He is the constitutional chief of the civil administration, as he is of the military force of the country, and its administration; but he cannot be substituted in person into all the acts of the civil officers of state, any more than into all the acts of the officers, soldiers, and sailors of the Army and Navy. He cannot in person communicate the executive will, except to a very limited number of the public officers, civil or military. He cannot even, by his own signature, make attestation to but a small proportion of the acts, civil or military, performed by his authority as the executive chief of the Government. All that is palpable. Of course he has about him lawfully appointed ministers, whose duty it is to determine, to attest, and to act, in his authority and behalf, in such matters as may be delegated conformably with the Constitution."⁷

8. As indicated in the foregoing quotation, the President must of necessity exercise command of the Army by delegating large parts of his power to his subordinates, indeed, all of his power except supervision of policy on the highest level. The first Congress, among whose members were many men who two years earlier had sat in the Convention which framed the Constitution, recognized the necessity and legality of such delegation when it passed the act of August 7, 1789,⁸ establishing the War Department, already cited. The language which was then used has been only slightly changed; and, as now in force and applicable to the Secretary of the Army, is as follows:-

"The Secretary of War shall perform such duties as shall from time to time be enjoined on or entrusted to him by the President relative to military commissions, the military forces, the warlike stores of the United States, or to other matters respecting military affairs; and he shall conduct the business of the department in such manner as the President shall direct."⁹

9. The President, is, by the Constitution, the Commander in Chief. He may, therefore, lawfully give any military order with his own lips or pen, or he may take command of the Army in person, as President Washington did during the Whiskey Rebellion in western Pennsylvania in 1794;¹⁰ but the importance

7. 7 Ops. Atty. Gen. 453, 479 (1855). An equally distinguished lawyer, Elihu Root, made a statement to the same effect at a hearing before the Committee on Military Affairs of the House of Representatives, Dec. 13, 1902. This statement is printed in Hearings before the Committee on Military Affairs, 69th Congress, 2d Session, Historical Documents relating to the Reorganization Plan of the War Department, 1927, at the foot of p. 117.

8. 1 Stat. 49.

9. Revised Statutes, sec. 216; 5 U.S. Code 190.

10. Federal Aid in Domestic Disturbances, Senate Doc. 263, 67th Congress, 2d Session, pp. 26-34; Richardson, Messages and Papers of the Presidents, Vol. I, p. 164.

of the President's other duties and lack of military education and experience will probably prevent any modern President from following his example. The President can, as a practical matter, command the Army only by delegating the greater part of his duties to the Secretary of the Army, reserving to himself the power of direction with respect to the most important questions of military policy. By direction of President Madison, the Secretary of War, John Armstrong, took the field in the fall of 1813, and in person directed the operations of the army on the northern frontier;¹¹ but, for reasons already stated with respect to the President, it is unlikely that any modern Secretary will follow Armstrong's example.

10. The principle of civilian control of the armed forces is basic in our Constitution and in that of England, and saves us from a military dictatorship, such as that which now exists in Spain and those which have existed at various times in some Latin-American countries and elsewhere. The President, a civilian, therefore delegates his powers of command over the Army, except for general direction on the highest level, to another civilian, the Secretary of the Army, by the very act of appointing a man to that office. The orders of the Secretary of the Army to the Army or to any member of it are therefore in legal contemplation those of the President, and have the same validity and force as if the President had uttered them with his lips or signed them with his pen. What has just been said was well expressed in Army Regulations, as follows:

"Command is exercised by the President through the Secretary of War, who directly represents him. Under the law and decisions of the Supreme Court, the acts of the Secretary of War are the President's acts, and his directions and orders are the President's directions and orders."¹²

11. The language of the regulation is a paraphrase of that of Attorney General Wirt in an opinion¹³ in which the question was put to that official by the Secretary of the Navy whether the latter had authority to suspend, modify, or rescind an order of the Lieutenant Colonel Commandant of Marines. After answering that question in the affirmative, the Attorney General continued:

"Since, then, the President possesses this power, and since the orders of the Secretaries are, in the eye of the law, the orders of the President, it is as manifest a breach of military subordination to dispute the orders of the heads of those departments, as if they had proceeded from the President in person."

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11. Fry, Military Miscellanies, p. 68; 1 Ops. Atty. Gen. 493 (1821).
 12. AR 1-15, 9 August 1944, par. 1b. The regulation noted was rescinded by AR 310-20, 19 Jan 1950; but the passage quoted in the text reappears in a slightly different form as par. 5, SR 10-5-1, 11 April 1950.
 13. 1 Ops. Atty. Gen. 380, 381 (1820).

12. Quotation has already been made¹⁴ from an opinion of Attorney General Cushing of 1855, the necessity for which arose out of the contention of Lt. Gen. Winfield Scott that he was not obliged to obey an order of the Secretary of War, unless the Secretary expressly stated that the order was given by direction of the President. That opinion closed as follows:-

"I conclude, therefore, on the authority of judicial decisions, and of the arguments, constitutional and statutory, herein adduced, that, as a general rule, the direction of the President is to be presumed in all instructions and orders issuing from the competent Department, and that official instructions, issued by the Heads of the several Executive Departments, civil or military, within their respective jurisdictions, are valid and lawful, without containing express reference to the direction of the President."¹⁵

13. The Attorney General has also held, under a statute authorizing the President under certain circumstances to dismiss an officer of the Army, that a dismissal was valid if announced in an order of the Adjutant General "under the orders of the President, as communicated to the Adjutant General by the Secretary", without proof of the signature of the President.¹⁶

14. The correctness in point of law of the Army Regulation already quoted and of the above opinions of the Attorney General is supported by many decisions of the Supreme Court and other courts. Thus, in United States v. Eliason, that court said:-

"The Secretary of War is the regular constitutional organ of the President, for the administration of the military establishment of the nation; and rules and orders publicly promulgated through him must be received as the acts of the executive, and as such, be binding upon all within the sphere of his legal and constitutional authority."¹⁷

15. In re Brodie was a case in the Circuit Court of Appeals for the Eighth Circuit, in which the opinion was written by Judge Vandevanter, who afterwards became a justice of the Supreme Court of the United States. After quoting the passage already quoted herein from the Eliason case, Judge Vandevanter went on to say:-

"Nor is it necessary for the Secretary of War in promulgating such rules or orders to state that they emanate from the President, for the presumption is that the Secretary is acting with the President's approbation and under his direction."¹⁸

14. In par. 7 of this paper.

15. 7 Ops. Atty. Gen. 453, 482 (1855). 10 Ops Atty. Gen. 171, 182 (1862), is to the same effect.

16. 2 Ops. Atty. Gen. 67, 68 (1828).

17. 16 Peters 291, 302 (1842).

18. 128 Fed. 665, 668 (1904).

16. Among the other cases holding that the official act or order of the head of a department is to be considered the act or order of the President are those cited in a footnote.¹⁹

17. The National Security Act, approved July 26, 1947,²⁰ created a new major governmental department, called the National Military Establishment,²¹ headed by a Secretary of Defense.²² That act changed the titles of the War Department and the Secretary of War to Department of the Army and Secretary of the Army respectively,²³ and further provided that the Department of the Army should be administered as an individual executive department by its Secretary under the general direction and control of the Secretary of Defense.²⁴ It also gave statutory authority for the existence of the Joint Chiefs of Staff and the Joint Staff,²⁵ which had been set up during World War II by the President.

18. On August 10, 1949, there were enacted the "National Security Act Amendments on 1949".²⁶ This statute changed the title of the National Military Establishment to "Department of Defense", made it an executive department, and changed the status of the Departments of the Army, the Navy, and the Air Force from executive departments to "military departments" within the Department of Defense.²⁷ It further provided that:-

"The Departments of the Army, Navy, and Air Force shall be separately administered by their respective Secretaries under the direction, authority, and control of the Secretary of Defense."²⁸

19. Parker v. United States, 1 Peters 293 (1828); Wilcox v. Jackson, 13 Peters 498, 511 (1839); Williams v. United States, 1 Howard 290 (1843); Confiscation Cases, 20 Wallace 92 (1873); United States v. Farden, 99 U.S. 10 (1878); Woolsey v. Chapman, 101 U.S. 755 (1879); United States v. Fletcher, 148 U.S. 84 (1892); U.S. ex rel. French v. Weeks, 259 U.S. 326 (1922); U.S. ex rel. Creary v. Weeks, 259 U.S. 336 (1922).

20. 61 Stat. 495, 499, et seq.; 5 U.S. Code 171 et seq.

21. Sec. 201.

22. Sec. 202.

23. Sec. 205.

24. Sec. 202.

25. Secs. 211, 212.

26. Public Law 216, 81st Congress.

27. Sec. 201.

28. Sec. 202(c) (4).

19. The National Security Act and the amendments of 1949 to it make the Secretary of Defense the first delegate or deputy of the President for the command of the Army, and the Secretary of the Army the sub-deputy for the same purpose. Notwithstanding the interposition of the Secretary of Defense between the President and the Secretary of the Army, what was said in the opinions of the courts and the Attorney General quoted earlier in this paper,²⁹ as to the orders of the Secretary of War being the President's orders, remains true as to the Secretary of the Army.

20. It is concluded, therefore, that the Secretary of the Army commands the Army; not, it is true, in his own name and right, but as the delegate of the President, the constitutional Commander in Chief; and that, if the Secretary shall address a regulation or order to the Army, to any part of it, or to any officer or soldier, even though it does not expressly recite that it is issued by direction of the President, it must be received and obeyed as emanating from him.³⁰

The General of the Army

Brief History of the Position

21. George Washington was Commander in Chief of the Army, with the rank of General, pursuant to a resolution of the Continental Congress of June 17, 1775, from July 3, 1775, when he took command under the famous elm on the Common at Cambridge, Mass., until December 23, 1783, when he resigned his commission and retired to private life. As there was during that period no President or other Executive, and the Constitution of the United States had not been written, the constitutional and legal situation was so different from that now existing as to make an examination of the powers which General Washington then exercised of no present value.

22. Washington was inaugurated as the first President April 30, 1789, and the government began to operate under the Constitution. As has already been stated, at its first session the first Congress passed the act of August 7, 1789,³¹ creating the office of Secretary of War. Henry Knox, the first incumbent, began his service as such September 12, 1789. From that time until the creation of the office of Chief of Staff on August 15, 1903, several men were successively the senior line officers of the Army.³² The rank of these officers varied from lieutenant colonel to general, but was major general for about half of that period. Except for a brief period in 1798 and 1799, when, in anticipation of a war with France, Washington was appointed lieutenant

29. In pars. 10-16.

30. See Chart I.

31. 1 Stat. 49.

32. A list of such officers appears in Ganoe's History of the U.S. Army, p. 533.

general, there appears to have been no unified command of the army except that of the President and the Secretary of War between 1783 and 1828.

23. By Sec. 3 of the act of March 3, 1815,³³ Congress reduced the number of major generals in the Army from the six who had been authorized during the War of 1812 to two. Apparently for that reason, two weeks later the Secretary of War divided the United States for military purposes into two geographical divisions, with Major General Jacob Brown commanding the Division of the North and Major General Andrew Jackson the Division of the South, with no superior except the President and the Secretary.³⁴

24. By Sec. 5 of the act of March 2, 1821,³⁵ the number of major generals was further reduced to one and brigadier generals to two. Eight days later Jackson resigned from the Army; and Jacob Brown, the only remaining major general, was brought to Washington for station; but there is no record of his taking command of the Army; and he probably served as military adviser to the President and Secretary of War. At the same time the former divisions were abolished; new Eastern and Western Departments were created; and the two brigadiers, Gaines and Scott, were each placed in command of one of them.³⁶

25. Brown died in 1828, and was succeeded as the only major general by Alexander Macomb. By order of May 28, 1828, issued by the Adjutant General "by direction of the President", Major General Macomb was directed to assume command of the Army, and did so the next day. Macomb was described in the Army Register as "Major General Commanding the Army". Brown had been described merely as major general; and the same was true of Scott, who succeeded Macomb in 1841 as the sole major general. Nevertheless, by order of July 5, 1841, the President directed Scott to command the Army; and, except for a brief period hereafter mentioned, he did so for the next twenty years. At the beginning of the Mexican War three additional major generals were authorized by Congress and appointed, and it was enacted at the close of that war that the number of officers in that grade should be reduced by attrition until only one should be left.³⁷ For a few months in 1848 and 1849, there were but two major generals, Winfield Scott and Zachary Taylor, the one commanding the Eastern Department and the other the Western, and no General of the Army. This situation ended with the inauguration of Taylor as President March 4, 1849, when Scott again became the sole major general and commander of the

33. 3 Stat. 225.

34. G.O., W.D., May 17, 1815.

35. 3 Stat. 615.

36. G.O.'s, W.D., May 17 and June 1, 1821.

37. Acts of June 18, 1846, Sec. 1; March 3, 1847, Sec. 1; and July 19, 1848, Sec. 1; 9 Stat. 17, 184, 247.

Army.³⁸ Scott became a lieutenant general by brevet in 1855, and served until November 1, 1861, when he retired pursuant to the first statute authorizing the retirement of officers of the Army.³⁹

26. The order announcing the retirement of General Scott⁴⁰ placed George B. McClellan, the senior of the major generals authorized by law during the Civil War, in command of the Army; and he served in that capacity, until, on March 11, 1862, because he had taken command of the Department and Army of the Potomac, he was relieved by the President of all other command.⁴¹ Pursuant to the President's order of July 11, 1862, Major General Henry W. Halleck, though not the senior major general in the Army, assumed command of the Army as General of the Army July 23, 1862.⁴²

27. The grade of lieutenant general was revived by Sec. 1 of the act of February 29, 1864,⁴³ and Major General Ulysses S. Grant was appointed to that office. On March 12, 1864, Major General Halleck was, at his own request, relieved as General of the Army; Lieutenant General Grant was assigned to the command of the Armies of the United States; and Major General Halleck was assigned to duty in Washington as Chief of Staff of the Army,⁴⁴ in which capacity he served until April 16, 1865, when he was assigned to other duties.⁴⁵ This appears to have been the first use of the term "Chief of Staff" in our Army. By the acts of July 25 and 28, 1866,⁴⁶ the grade of general was revived, and the President appointed Grant to that rank.⁴⁷ Upon Grant's inauguration as President March 4, 1869, William T. Sherman was appointed general and assigned to the command of the Army. After Sherman was relieved on November 1, 1883, as a preliminary to his retirement, the Army was commanded successively by General Philip H. Sheridan (1883-1888) and Lieutenant Generals John M. Schofield (1888-1895), Nelson A. Miles (1895-1903), and Samuel B. M. Young (August 8-15, 1903).

38. Scott's Memoirs, Vol. II, p. 594.

39. Act of August 3, 1861, Secs. 15-18, 12 Stat. 289.

40. G.O. 94, W.D., November 1, 1861.

41. President's War Order No. 3, March 11, 1862.

42. G.O. 101, W.D., August 11, 1862.

43. 13 Stat. 11.

44. G.O. 98, W.D., March 12, 1864.

45. G.O. 65, W.D., April 16, 1865.

46. 14 Stat. 223, 333.

47. Sec. II, G. O. 71, W.D., Aug. 31, 1866.

Statutes, Regulations, and Orders with respect to the
General of the Army

28. Let us examine the statutes and orders by which some of the officers above named became generals of the army. The act of February 29, 1864,⁴⁸ provided:-

"That the grade of lieutenant-general be and the same is hereby revived in the Army of the United States; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the senate, a lieutenant-general, to be selected from among those officers in the military service of the United States, not below the grade of major general, most distinguished for courage, skill, and ability, who, being commissioned as lieutenant-general, may be authorized, under the direction, and during the pleasure of the President, to command the armies of the United States."

29. Congress intended that the President should appoint Grant to the revived grade of lieutenant general, and he did so. As has already been stated in this paper,⁴⁹ it was announced in G.O. 98, W.D., March 12, 1864, that "The President of the United States orders" that Lieutenant General U.S. Grant be assigned to the command of the Armies of the United States. This order was signed by an Assistant Adjutant General "by order of the Secretary of War." All this was as it should be. Congress alone can create an office; but it cannot appoint anybody to the office which it creates, for the appointment of all major officers is vested by the Constitution in the President, by and with the advice and consent of the Senate.⁵⁰ Neither may Congress enact that a particular man shall command the Army, because to do so would interfere with the power of the President as Commander in Chief. For the same reason it is at least doubtful whether Congress may direct that the holder of a particular office shall command the Army.

30. Congress did not in the foregoing statute undertake to do any of these things. It created the office of lieutenant general, and enacted that the holder of that office "may be authorized ... to command the Armies of the United States." Authorized by whom? Obviously by the President. But the lieutenant general "may" be authorized to command, not "must". Congress refrained from attempting to deprive the President of his right to choose his deputy for the immediate command of the Army.

31. Note also that the statute says that the lieutenant general, if authorized to command, shall do so "under the direction of the President". Here again, Congress could not constitutionally have provided otherwise. No military officer is or can be exempted from subjection to the orders of the President. Note further, that, after the statute was passed, the President nominated Grant to be a lieutenant general; and after he was confirmed by the Senate and commissioned

48. 13 Stat. 11.

49. In par. 27.

50. Article II, Sec. 2.

as such, assigned him to command the armies of the United States. Finally note that the President's order was issued through and by order of his principal deputy in respect of the land forces, the Secretary of War. Again all these procedures were as they should have been, and they could not constitutionally and legally have been otherwise.

32. There have been several similar statutes, which, like that discussed in the preceding paragraphs, were passed by Congress with the intention that a particular general should be appointed or promoted pursuant to them.⁵¹ These acts and the orders issued in implementation of them were drawn on the same correct principles. Two other acts, which might seem inconsistent with those principles, are not really so. They provide for additional rank, pay, or allowances for the sole brigadier general in one case, or the senior major general in the other, while commanding the Army;⁵² but they do not require the President to entrust the command of the Army to that officer, and it is doubtful if they could constitutionally have done so.

33. The only Army statute which has been found, which is inconsistent with the above principles, is Sec. 9 of the act of March 3, 1799,⁵³ which provides:-

"That a commander of the Army of the United States shall be appointed and commissioned by the style of 'General of the Armies of the United States,' and the present office and title of lieutenant-general shall thereafter be abolished."

34. The above statute is a peremptory order by Congress to the President that the holder of a particular office shall command the Armies of the United States, and is believed to be unconstitutional as an interference with the President's authority as Commander in Chief. It was intended by Congress that President John Adams should appoint Washington general of the armies, pursuant to this statute; but, as Adams doubted its constitutionality,⁵⁴ as the anticipated war with France did not occur, and as Washington died soon after the passage of the act, no appointment was made under it. Though never repealed, the statute has been treated as a dead letter since Washington's death. No later act of Congress has undertaken to create the office of commander of the army or to direct who shall command it.

51. Among these statutes are those listed below. The names of officers who were the beneficiaries of each are given in parentheses. May 28, 1798, Sec. 5, 1 Stat. 558 (Washington); Feb. 15, 1855, 10 Stat. 723 (Winfield Scott); July 25, 1866, 14 Stat. 223 (Grant); June 1, 1888, 25 Stat. 165 (Sheridan); Feb. 5, 1895, Sec. 1, 28 Stat. 968 (Schofield); Mar. 2 and 3, 1899, 30 Stat. 995 and 1045 (Dewey).

52. Acts of Mar. 3, 1797, sec. 2, 1 Stat. 507; and June 6, 1900, sec. 2, 31 Stat. 655.

53. 1 Stat. 752.

54. 7 Ops. Atty. Gen. 399, 423; Bvt. Maj. Gen. James B. Fry, Military Miscellanies, p. 66.

35. Section 208(b) of the National Security Act of 1947,⁵⁵ with reference to the Chief of Staff of the Air Force, and section 2(b) of the Navy Act of March 5, 1948,⁵⁶ appear to be inconsistent with the principles maintained in the preceding paragraphs. The former says that "under the direction of the Secretary of the Air Force, the Chief of Staff . . . shall exercise command over the United States Air Force." The latter provides, with respect to the Chief of Naval Operations, that, "It shall be his duty to command the operating forces." In section 1(c) "operating forces" are defined as the fleets, sea-going forces, sea-frontier forces, district forces, and such shore and other forces as may be assigned by the President or the Secretary of the Navy, i.e., practically all the combatant forces of the Navy. These statutes require the President and the Secretaries of the Navy and the Air Force to exercise the President's command of the Navy and the Air Force only through the Chief of Naval Operations and the Chief of Staff of the Air Force, respectively. These requirements would seem to be an interference with the powers of the President as Commander in Chief to select his military subordinates and assign duties to them as he pleases, and therefore unconstitutional and void.

36. The right of the President to delegate his power of command over the Army to whomsoever he pleases is shown by the fact that for more than a year and a half, from August 11, 1862, to March 12, 1864, Major General Halleck, though not the senior major general, commanded the Army by the President's direction.⁵⁷ Except for that period and for the ten months at the close of the Mexican War when the two major generals each commanded a department, at all times from 1828 to 1903 the senior line officer commanded the Army. Whether his rank was general, lieutenant general, or major general, he was usually called the General of the Army, sometimes General in Chief. It is also to be noted that each such officer took command of the Army, not by virtue of his being the senior line officer of the Army, but pursuant to an order of the President directing him to do so.

37. During the greater part of the period when there was a general of the army assigned to command it (1828-1903), there was no statute concerning his duties. There have been but three such acts, of which one was of brief duration.⁵⁸ The others dealt, not with command, but with certain minor duties only.⁵⁹

38. Preceding chronologically to consider the statutes, regulations, and orders dealing with the duties of the general of the army, we must begin with the earliest edition of the Army Regulations which says anything on that subject, that of 1847, which provides in paragraphs 48 and 49:

55. 61 Stat. 503, 5 U. S. Code 626c(b).

56. Public Law 432, 80th Congress.

57. G. O. 101, W.D., Aug 11, 1862; Army Registers for 1862, 1863, and 1864.

58. Quoted in par. 40, post.

59. They are summarized in par. 48, post.

"48. The military establishment is placed under the orders of the Major-General Commanding-in-Chief, in all that regards its discipline and military control. Its fiscal arrangements properly belong to the administrative departments of the staff, and to the Treasury Department under the direction of the Secretary of War.

"49. The General will watch over the economy of the service, in all that relates to the expenditure of money, supply of arms, ordnance, and ordnance-stores, clothing, equipments, camp-equipage, medical and hospital stores, barracks, quarters, transportation, fortifications, Military Academy, pay and subsistence, in short, everything which enters into the expenses of the military establishment, whether personal or national. He will also see that the estimates for the military service are based upon proper data, and made for the objects contemplated by law, and necessary to the due support and useful employment of the army. In carrying into effect these important duties, he will call to his counsel and assistance the staff, and those officers proper in his opinion to be employed in verifying and inspecting all the objects which may require attention. The rules and regulations established for the government of the army, and the laws relating to the military establishment, are the guides to the Commanding General in the performance of his duties."

39. Neither the above paragraphs nor anything else about the duties of the general of the army are found in the next edition of Army Regulations, that of 1857. A possible explanation is that the Secretary of War was then Jefferson Davis. He served as such during the term of President Franklin Pierce (March 4, 1853-March 4, 1857). At the date of publication of that edition of the Regulations, January 1, 1857, the presidential election had been held, and Davis knew that Pierce would be succeeded by James Buchanan in a little over two months. During Davis' entire service as Secretary, Winfield Scott was general of the army; and the two had gotten into a bitter quarrel, in which each wrote acrimonious letters to the other, as will be shown later in this paper.⁶⁰ Before affixing his signature approving the Regulations of 1857, Davis may have deleted the paragraphs in which such great powers were conferred upon his adversary. Scott was so charged; but Floyd, Davis' successor as Secretary of War, answered that the failure to include a definition of the duties of the General in Chief in the new Army Regulations did not take away any of the authority or honor of that position, that definitions are always difficult, and he concurred in their omission in this instance.⁶¹ Nothing on the duties of the general of the army appears in the 1861 edition of Army Regulations.

60. Pars. 56-60.

61. Floyd to Scott, 25 Sep. 1857, quoted in Maj. Gen. James B. Fry, *History and Legal Effect of Brevets*, p. 207; and in Brig. Gen. G. Norman Lieber, *Remarks on the Army Regulations*, p. 66.

40. The only act of Congress touching the command duties of the general of the army is Sec. 2 of the act of March 2, 1867,⁶² as follows:

"SEC. 2. And be it further enacted, That the headquarters of the General of the army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the army, and, in case of his inability, through the next in rank. The General of the army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction."

41. The foregoing section was a shot fired by the Republican majority in Congress at President Johnson during the "cold war" between them over the reconstruction of the states which had undertaken to secede. Congress had lost confidence in Johnson; but trusted Grant, the general of the army. It therefore attempted to tie the hands of the former, and to make the latter the real and sole commander of the Army. In a message to Congress,⁶³ President Johnson protested against the above section as deposing him from his constitutional position as commander in chief; but he could not prevent its enactment, as it was a part of the Army Appropriation Act, and a veto would have left him without funds for the Army. Anyhow, the Republican majority was so great and its members so hostile to Johnson that they would probably have overridden his veto.

42. Choice of the location of headquarters; the suspension, relief, and assignment of officers; and the selection of the channel for the transmission of orders are all functions of command; and President Johnson was right in considering the above section unconstitutional. When Grant succeeded Johnson as President, the reason for this section ceased to exist, and it was repealed.⁶⁴

43. The circumstances that the headquarters of the Army was at the date of enactment of the statute in question at Washington, and was kept there by other Presidents after its repeal; that later Presidents approved Army Regulations prescribing the issue of orders through the channel mentioned in this statute; and that President Johnson probably would not have suspended or relieved Grant, the national hero, from command of the Army are beside the point.

62. 14 Stat. 486.

63. Richardson, Messages and Papers of the Presidents, Vol VI, p. 472.

64. Sec. 15, Act of July 15, 1870; 16 Stat. 319.

It is one thing for a commander in chief of his own free will to do certain things, it is another for somebody else to tell him that he must do the same things. In the latter case he is commander in chief in name only.

44. Four days after Grant had become President and Sherman had succeeded him as general in chief, G. O. 11, Headquarters of the Army, March 8, 1869, published an order dated March 5, 1869, signed by J. M. Schofield, Secretary of War, the body of which is as follows:

"By direction of the President, General William T. Sherman will assume command of the Army of the United States.

"The Chiefs of the Staff Corps, Departments, and Bureaus will report to and act under the immediate orders of the General commanding the Army.

"All official business, which by law requires the action of the President or Secretary of War, will be submitted by the General of the Army to the Secretary of War; and in general, all orders from the President or Secretary of War to any portion of the Army, line or staff, will be transmitted through the General of the Army."

45. Nineteen days later, after another Secretary of War had taken office, there was a change. G. O. 28, Headquarters of the Army, March 27, 1869, published an order signed by John A. Rawlins, Secretary of War, rescinding, by direction of the President, all of the order just quoted except the direction to General Sherman to assume command of the Army and continued:

"All official business, which, by law or regulations, requires the action of the President or the Secretary of War, will be submitted by the Chiefs of Staff Corps, Departments and Bureaus, to the Secretary of War.

"All orders and instructions relative to military operations, issued by the President or the Secretary of War, will be issued through the General of the Army."

46. G. O. 28, War Department, April 6, 1876, gave the direction repeated later in paragraph 126 of the Army Regulations of 1881, quoted below. The next edition of Army Regulations, that of 1881, contained the following with respect to the general of the army:

"125. The Military establishment is under the orders of the General of the Army in all that pertains to its discipline and military control. The fiscal arrangements of the Army belong to the several administrative departments of the Staff, under the direction of the Secretary of War, and to the Treasury Department.

"126. All orders and instructions relating to military operations, or affecting the military control and discipline of the Army, issued by the President or the Secretary of War, will be promulgated through the General of the Army."

47. The similarity will be noted of paragraph 125 in the regulations of 1881 to paragraph 48 of those of 1847, quoted in paragraph 38 of this paper. In the edition of 1889, the paragraphs corresponding to those set out above were 186 and 187; in that of 1895, 187 and 188; and in that of 1901, 205 and 206. In these a few verbal changes were made, but the sense remained the same.

48. The two statutes previously mentioned imposing minor duties upon the general of the army are section 10 of the act of March 3, 1883⁶⁵ and section 1 of the act of September 22, 1888,⁶⁶ making that officer a member of the Board of Governors of the Soldiers' Home and the Board of Ordnance and Fortification, respectively.

49. An office is a position created by the Constitution or an act of Congress, the right of appointment to which is vested in the President by and with the advice and consent of the Senate, in the President alone, in the head of a department, or in a court.⁶⁷ An office is to be distinguished from a military detail, which is an order by the President or other commanding officer addressed to an army officer directing him to perform a certain duty, usually at a certain place. An officer so detailed may gather assistants around him, and the place where he works may be colloquially called an office; but his position is not one in the eye of the law.

50. In the foregoing survey no mention has been made of any statute creating the position of general of the army. There was no such statute, though a few acts recognized the existence of the general of the army by providing for his aides, his allowances, etc.⁶⁸ The position of general of the army was, therefore, not an office, but a detail. The occupant held the office of general, lieutenant general, or major general; and was detailed as general of the army. What was done was none the less legal, because the President as Commander in Chief, or the Secretary of War or of the Army on his behalf, may detail an army officer to any duty of a military nature,⁶⁹ and is not obliged to wait for Congress to create an office. However, the President could not transfer to the general of the army the task which the Constitution imposed upon him (the President) of being Commander-in-Chief of the Army, and did not in fact attempt to do so. The most that he could legally do was to make the general of the army his deputy or executive, under the Secretary of War, for the command of the Army. What in fact happened will be described in the next part of this paper.

65. 22 Stat. 565.

66. 25 Stat. 489.

67. Constitution, Article II, section 2; United States v. Germaines, 99 U.S. 508 (1879); United States v. Mouat, 124 U.S. 303, 307 (1888).

68. May 9, 1836, sec. 1, 5 Stat. 27; July 5, 1838, sec. 21, 5 Stat. 259; Aug. 23, 1842, sec. 6, 5 Stat. 513; June 18, 1846, sec. 8, 9 Stat. 18; Sep. 26, 1850, sec. 2, 9 Stat. 469.

69. Billings v. United States, 23 C. Cls. 166 (1888).

51. Chart I shows the organization of the War Department and the Army from 1828 to 1903, according to law, as laid down in Attorney General Cushing's opinion,⁷⁰ and in theory. The staff bureaus are not shown on it, because it is not clear where they ought to appear. As the general of the army was ordered to take command of the Army, and as the Adjutant General, the Quartermaster General, and the chiefs of the other staff departments belonged to the army; it might be inferred that he commanded them. On the other hand, the Army Regulations already quoted⁷¹ lent support to the view that those departments were under the Secretary of War, and that the General of the Army had nothing to do with them. How the organization actually worked is shown by Chart III of this paper.

70. Quoted in pars. 7 and 12, ante.

71. In pars. 38 and 46, ante.

B. ADMINISTRATIVE HISTORY

Operation of the Command Team of the President, the Secretary of War, and the General of the Army, 1828-1903

Introduction

George Washington to Alexander Macomb, 1775-1841

52. We have reviewed the constitutional and legal status of the President as Commander in Chief¹ and of the Secretary of War.² We next considered the position of General of the Army, the persons who held that position,³ and the statutes, regulations, and orders with respect to it.⁴ Let us now take up the question; how did the team actually work? How did the President, the Secretary of War, and the General of the Army get along with each other? How well was the important public duty which concerned all three, namely, the command of the Army, actually performed?

53. As has been stated, though Washington was appointed Lieutenant General, and assigned to command the Army when war with France was anticipated in 1798-99, his tenure was soon ended by his death and he never exercised command in fact. There was no single commander of the army, other than the President and the Secretary of War, from Washington's time until 1828, when Alexander Macomb was appointed the sole major general and detailed to command the Army. Prior to Macomb's promotion and assignment to that duty in 1828, Jacob Brown had been the sole major general, and Edmund B. Gaines and Winfield Scott the only brigadier generals of the line. The two last had long been engaged in a bitter dispute as to which was the senior; and, when Brown died in 1828, the feud between them became even more virulent as each contended that he should be promoted to major general. President John Quincy Adams, disgusted by their quarreling, passed over both; and appointed Macomb, then Chief of Engineers with the rank of colonel, as major general; and assigned him to command the Army. Scott wrote violent protests to the Secretary of War, addressed a memorial to Congress, and publicly announced that he would not obey Macomb's orders. The Secretary relieved Scott of his command of the Western Department. A long leave of absence, during which he visited Europe, cooled his wrath; and upon his return he submitted, and was assigned to an appropriate command.⁵ So far as can be ascertained, the relations between the President and the Secretary of War on the one hand, and General Macomb as General of the Army on the other, were harmonious. No excuse can be made for Scott's insubordination; but the incident shows that, if there was to be a General of the Army, the manner of his selection and his powers and duties should have been clearly defined by regulation or otherwise.

1. Pars. 1-4, ante.

2. Pars. 5-20, ante.

3. Pars. 21-27, ante.

4. Pars. 28-51, ante.

5. Major Charles W. Elliott, Winfield Scott, the Soldier and the Man, Chaps XX and XXI.

Winfield Scott, 1841-1861

54. In 1841 General Macomb died and President Tyler appointed Winfield Scott the sole major general and assigned him to command the Army. Notwithstanding those actions of Tyler, which made possible Scott's subsequent glorious achievements in the war with Mexico, in his Memoirs⁶ written many years later, Scott refers to Tyler in opprobrious terms. Tyler had four Secretaries of War, and Scott's relations with all of them were strained, though there was no open break.⁷ March 4, 1845, Tyler was succeeded as President by Polk, who appointed William L. Marcy as his Secretary of War. Both were Democrats. Scott was a Whig, for whom many votes had been cast in the convention which chose the Whig nominee for the Presidency in 1840, and was still in a receptive mood. These circumstances caused considerable distrust of Scott by Polk and Marcy,⁸ which culminated in an unsuccessful scheme to make Benton, a Democratic senator with some slight military experience, lieutenant general over Scott.⁹ Scott later used most derogatory language about Polk in his Memoirs;¹⁰ but there was no open break, and Scott performed wonders in preparing the Army for the Mexican War and later in leading it from Vera Cruz to the city of Mexico and in capturing that city.

55. Scott and Taylor, the outstanding generals of the Mexican War, had been fellow officers of the Army and friends before that war and during the first part of it. In his Memoirs Scott wrote long afterward in cordial terms of Taylor and maintained that he never was anything but a friend to Taylor.¹¹ However, Scott had thought it necessary to take the larger part of Taylor's troops from him for Scott's own expedition to Vera Cruz and Mexico City; and that aroused Taylor's wrath¹² to such a degree that, when the latter became President on March 4, 1849, and Scott on the same day again became the sole major general and general of the army, Scott thought it best to establish the headquarters of the Army, not at Washington, but at New York, where Scott had since his return from Mexico been stationed as commanding general of the Eastern Department. There the headquarters of the Army remained for more than a year, until Taylor died and Fillmore became President; when Scott moved it back to Washington.¹³

6. Pp. 360, 361.

7. Elliott, Winfield Scott, p. 413, note 19.

8. Same, Chapter 34.

9. Elliott, Winfield Scott, pp. 437, 438, 441, notes; Memoirs, pp. 399-401.

10. Pp. 399-401.

11. Pp. 382-384.

12. Scott, Memoirs, pp. 404-406; Elliott, Winfield Scott, p. 596.

13. Scott, Memoirs, pp. 594-595; Elliott, Winfield Scott, p. 605.

56. In 1852 Pierce and Scott were the candidates of the Democratic and Whig parties, respectively, for the Presidency. The former won. Before the new President's inauguration, Scott asked and received his successful rival's permission to move the headquarters of the Army again to New York.¹⁴ President Pierce made Jefferson Davis his Secretary of War. Scott had been accustomed to travel on official business as he saw fit without written orders. An auditor took exception to a voucher for mileage for such a trip. Scott protested that there was no higher military authority than himself except the President, that it must be assumed that he (Scott) had decided that the travel was necessary, and that no written order from the President was necessary. Davis sustained the auditor.¹⁵

57. In 1855 Davis and Scott had a row about the question whether any back pay and allowances were due to Scott under the joint resolution of Congress authorizing his appointment as lieutenant general by brevet, with rank from the date of the capture of Vera Cruz. Attorney General Cushing decided this issue in favor of Scott; and the Secretary of War appealed to the President, who sustained the Attorney General.¹⁶

58. Another cause of dispute between Davis and Scott was the unsettled accounts of the latter for secret service money, captured money and property, and other funds in Scott's possession during the Mexican War. Against the General's protests, the Secretary sought to deny him commissions and other credits which Scott claimed, and Davis in part succeeded.¹⁷

59. A fourth cause of quarrel arose between Davis and Scott. The Secretary undertook to call the general to account for having granted a leave of absence to an officer whose regiment was under orders to take the field against hostile Indians, and to give directions to the general as to such cases in the future. The general informed the Secretary that, if the latter's letter was a command of the President, it should so state expressly, as the general did not recognize the right of the Secretary to give him orders. After another exchange of acrimonious letters, the Secretary forwarded the correspondence to the President, and he referred it to the Attorney General, who wrote the opinion already cited in this paper holding that official acts and orders of the Secretary of War are to be considered as emanating from the President, whether or not they expressly recite his authorization.¹⁸ The question at issue between the Secretary and the General ceased to be a practical one, because the officer to whom the leave had been granted resigned; but the caustic correspondence went on and on. Each wrote long catalogues of alleged past misconduct by the other. Davis said that the general's career had been marked by "querulousness, insubordination, greed of lucre, and want of truth." The general referred to "repeated aggressions on my rights and feelings", and described the Secretary's letters as "public missives of arrogance and superciliousness".¹⁹

14. Scott, *Memoirs*, p. 594; Elliott, *Winfield Scott*, p. 648.

15. Elliott, *Winfield Scott*, pp. 649-651.

16. Senate Ex. Doc. 34, 34th Cong., 3rd Session; Elliott, *Winfield Scott*, pp. 653-655; 7 Ops. Atty. Gen. 399.

17. Elliott, *Winfield Scott*, pp. 651-653.

18. 7 Ops. Atty. Gen. 453, quoted in pars. 7 and 12 of this paper.

19. Senate Ex. Doc. 34, 34th Cong., 3d Session; Elliott, *Winfield Scott*, pp. 655-659.

60. A fifth cause of Scott's violent dislike of Davis was the omission, from the edition of 1857 of the Army Regulations, of the paragraphs defining the duties of the general of the army. This matter has been discussed in paragraphs 38 and 39 of the present paper.

61. Scott maintained the headquarters of the Army in New York from the beginning of President Pierce's administration, March 4, 1853, until his retirement on November 1, 1861; though Scott was personally in Washington from December 12, 1860, until the end of his active service.²⁰ John B. Floyd of Virginia was Secretary of War in President Buchanan's cabinet from March 4, 1857, until he resigned at the President's request December 29, 1860, and departed for the South, where he adhered to the Confederacy. Scott, though a Virginian, was loyal to the Union. During the last months of his term as Secretary, Floyd failed to put the Army posts in the southern states in readiness for war. Scott's advice to this end was not asked, or, if volunteered, was not heeded by the Secretary; and there was but little communication and no co-operation between them.²¹ A communication from Scott direct to President Buchanan, making similar sound recommendations, was disregarded, because it also contained political advice, which it was no part of Scott's duty to give, and which was unwise and impracticable.²²

62. Joseph Holt, who later was the Judge Advocate General of the Army from 1862 to 1875, became Secretary of War for the last two months of Buchanan's administration; and was succeeded upon Lincoln's inauguration, March 4, 1861, by Simon Cameron. The latter was a Pennsylvania politician, whose reputation was none too good.²³ His administration of the War Department, fortunately brief, was marked by failure to grasp the magnitude of the coming struggle, slowness, and inefficiency. Salmon P. Chase, then Secretary of the Treasury and afterwards Chief Justice of the Supreme Court, drew the orders for the volunteer army and did other work properly pertaining to the Secretary of War.²⁴ The War Department at first set up no recruiting system of its own, but called upon the governors of the states for regiments. After the President asked for three year volunteers, it took Secretary Cameron twelve days to determine the quotas of the several states.²⁵ The governors, filled with patriotic enthusiasm, pressed upon the Department more regiments than were allotted to their

20. Scott, *Memoirs*, p. 595; Elliott, *Winfield Scott*, pp. 649, 663, 707.

21. Elliott, *Winfield Scott*, pp. 676-682.

22. Same, p. 677; James Ford Rhodes, *History of the U.S. from the Compromise of 1850*, Vol. III, pp. 74-76.

23. William B. Hesseltine, *Lincoln and the War Governors*, N.Y., Alfred A. Knopf, 1948, p. 192.

24. Same, pp. 175, 176.

25. Same, p. 176.

states; and Cameron accepted them.²⁶ The War Department's own records were in such confusion that the only way the Secretary could find out how many regiments he had accepted was to ask the governors. When he did so, he found that, in response to a call for 55 regiments, he had accepted 208.²⁷

62a. What were the reasons for the inefficiency, indicated in the preceding paragraph, of the directing organism, the command team of the army? They were in part personal reasons, for which the system can not be blamed; the ineptitude of Cameron, the superannuation of Scott, and the insubordination of McClellan, discussed in the next paragraph. Some of the trouble was also due to the governmental inexperience of the President and his Secretary of War, always noticeable in greater or less degree when a new President takes office. More of the slowness and inefficiency was due to the natural and praiseworthy reluctance of President Lincoln and the northern people to admit that so horrible a thing as civil war was beginning, and to prepare for it. But a great deal of the gross inefficiency of the War Department at this time was undoubtedly due to the absence of a body of men, whether called a general staff or by some other name, whose duty it was in time of peace to make plans for war, to take the further measures necessary when war became imminent, and to advise with respect to military operations when war was raging.

63. During this period, in spite of his 74 years, Scott accomplished wonders; but all the staff that he had to help him was his personal aides and secretaries. Notwithstanding what has been said in the preceding paragraphs about the inefficiency of the command team of the army just before the Civil War and in its opening months, during that critical time Scott rendered services to his country no less valuable than those performed by him in two former wars, by assuring a peaceful transfer of the presidency from Buchanan to Lincoln, by preventing the capture of the national capital by a raid or infiltration, and by doing what he could to prepare the Army for the Civil War. Scott was, as he admitted himself, too old to take the field. After McDowell's defeat at the first battle of Bull Run, July 21, 1861, Major General George B. McClellan, already the hero of a brief and successful campaign in what was soon to become the state of West Virginia, was brought to Washington, and placed in charge of organizing, equipping, and drilling the recruits who were to form the Army of the Potomac. In this task, he conferred and corresponded directly with the President and Secretary of War, issued orders in disregard of the aged general of the army, and failed to comply with the latter's orders to him. Scott addressed letters of protest to the Secretary of War, while McClellan wrote letters to his wife containing such statements as, "that confounded old General always comes in the way - he is a fearful incubus," and "General Scott is the most

26. Same.

27. Same, p. 178.

29. Same, p. 178.

dangerous antagonist I have."²⁸ Apart from differences of age and temperament and McClellan's by-passing of Scott, the two had wholly different strategic plans for the war. Scott's scheme, called the "anaconda" plan, was to crush the Confederacy by a blockade of its Atlantic and Gulf ports, and by control of the Mississippi River and establishing a line of posts along it.²⁹ McDowell's advance, which ended in defeat at the first battle of Bull Run, had been ordered against Scott's advice. That disaster and the great part later played by the naval blockade in strangling the Confederacy show that Scott's scheme had merit. McClellan's plan was for "prompt and irresistible" military action in Virginia, to be followed by advances elsewhere.³⁰ The unfortunate conflict between them was ended by the retirement of Scott November 1, 1861.

64. Scott rendered services of inestimable value to the nation in three wars. His contributions to the success of the armies of the republic rank with those of Grant, Pershing, and Eisenhower; and extended over a far longer period than those of any one of them. He was also an industrious and capable military administrator in time of peace. Why, then, was he, during his twenty years' service as general of the army, so frequently engaged in quarrels with his superiors and his subordinates? The blame must in part rest upon Scott himself; for, notwithstanding his patriotism and ability, he was vain and irascible. But the trouble was even more due to:

- a. The lack of any clear definitions of the powers and duties of the General of the Army. In particular, if the position was to exist at all, it should have been made clear that the incumbent of it, subject to the direction of the Secretary of War, commanded all military personnel, including the bureau chiefs, and was authorized to issue orders to them all concerning the performance of their duties.
- b. The failure to realize, at least until Attorney General Cushing's Opinion in 1855, that the General of the Army is in law and must be in fact subordinate to the Secretary of War.

George B. McClellan, 1861-1862

65. Let us next pass to the brief period of four months when McClellan was General of the Army (November 1, 1861 - March 11, 1862), followed by one of equal length (March 11 - July 23, 1862), during which there was no General of the Army, but McClellan commanded the Army and Department of the Potomac, the most important tactical command and theater of operations. Lincoln was president during both periods; Simon Cameron, Secretary of War until January 14, 1862, and Edwin M. Stanton thereafter. What were the relations between the

28. Elliott, Winfield Scott, pp. 734-739; Rhodes, History of the U.S., Vol. III, pp. 379-381, 384; R.M. Johnston, Leading American Soldiers, pp. 130-132, 152, 231-233; McClellan's Own Story, p. 86, also pp. 85, 91, 136, 170, 171.

29. Elliott, Winfield Scott, pp. 721-723.

30. McClellan's Own Story, p. 101.

President and the Secretary of War on the one hand, and General McClellan on the other, during these periods? In his book, General McClellan wrote that it often happened that, when a shipment of unusually good arms arrived from Europe, which he (McClellan) desired for the Army of the Potomac, he would find that Cameron had promised them to some political friend who was raising a new regiment. Otherwise, Cameron supported McClellan loyally.³¹ McClellan charges that Secretary Stanton would say one thing to a man's face and another behind his back; and that Stanton for political reasons conspired with Mr. Chase, Secretary of the Treasury, and other radical Republicans, to withhold supplies from McClellan so that his campaign would fail.³²

66. General McClellan says that his personal relations with President Lincoln were pleasant, and "I seldom had trouble with him" if the two could meet face to face; but that it was the policy of Secretary Stanton to prevent interviews between them, so that he (Stanton) might say one thing to the President and another to the general. McClellan also complained that Lincoln appointed general officers without consulting him, and issued orders to him impossible of execution.³³ Lincoln on several occasions issued formal presidential war orders, as for example, General War Order No. 1, January 27, 1862, fixing Washington's birthday of that year as the date for a general forward movement, and Special War Order No. 1 of the same date, directing the Army of the Potomac to seize Manassas Junction. His action in so doing was within his lawful powers as Commander in Chief; but it is difficult to justify, on grounds of policy, the issue on his own initiative, by a President with little military experience, of an order with respect to strategy and tactics. However, it may be said in exculpation of Lincoln that McClellan always overestimated the strength of his enemy and lacked aggressiveness,³⁴ and that it was necessary to set a dead-line to make him move.

67. The President and Secretary Stanton, in their anxiety to protect Washington, from time to time during the Peninsular Campaign withheld from McClellan troops promised to him or which he thought necessary.³⁵ This culminated in the intervention thus described by the historian Rhodes:

"In the East, by the interference of President Lincoln and Secretary Stanton with McClellan's plan of uniting the force under McDowell to the army near Richmond in the latter part of May, the best chance of success offered in the course of the Peninsular Campaign was thrown away."³⁶

31. Same, pp. 152.

32. McClellan's Own Story, pp. 137, 149-152 and elsewhere.

33. Same, pp. 160-162, 195.

34. Rhodes, History of the U.S., Vol III, pp. 379, 380; Steele, American Campaigns, Vol I, pp. 210, 274, 276; Johnston, Leading American Soldiers, pp. 235, 236, 238, 239.

35. McClellan's Own Story, p. 241 and elsewhere.

36. The Story of the Civil War, Vol. II, pp. 126, 473. See also McClellan's Own Story, p. 351.

68. McClellan was by no means free from blame in his conduct toward the President. One evening Lincoln called at McClellan's house in Washington, and, finding him out, sat down to wait. When the general returned and was told of his distinguished visitor, instead of entering the parlor, he went upstairs and to bed. On other occasions, McClellan broke appointments with the President.³⁷ When some one remonstrated to Lincoln that he should not permit such disrespect to be shown to the President of the United States, Lincoln answered that, if that were necessary to enable McClellan to win battles, he would hold the general's horse.

69. James Ford Rhodes, an able and impartial historian, sums up the matter by saying that McClellan was not equal to the position of general of the army, and "because of his incompetence the President was forced little by little to invade his province and assume unwanted duties," that Stanton brought to his difficult task ability, energy, and honesty; and that Lincoln and Stanton desired McClellan's success.³⁸

Henry W. Halleck, 1862-1864

70. Major General Henry W. Halleck became General of the Army July 23, 1862, and served as such until March 9, 1864. Halleck was a man of many talents. He was an accomplished engineer. Upon graduating from the Military Academy, he entered the Corps of Engineers. He served as assistant professor of engineering at West Point and declined a professorship of that science at Harvard University. He studied law; and, upon resigning from the army in 1854, became the head of a leading law firm in San Francisco. He wrote books on mining law and international law. His work on the latter topic went through several editions and was republished in England. While a civilian in San Francisco he was very successful in business dealings and became president of a railroad company. As a writer on the art of war, he translated from the French a biography of Napoleon and wrote a text-book used by volunteer officers in the Civil War. His nickname was "Old Brains". He returned to the army at the beginning of the Civil War.

71. Let us first consider the three months and a half from Halleck's assumption of this post until McClellan's relief from command of the Army of the Potomac on November 7, 1862. Rhodes says, "the division of authority between Halleck and McClellan worked badly and occasioned misunderstanding."³⁹ Further on he says that after Antietam there were mutual recriminations about supplies.⁴⁰ It would seem that the General of the Army should, without being asked, communicate to a general in the field any information in his possession about the disposition of other troops of his own country and the enemy's force; but Halleck became vexed when such a request was made to him and telegraphed Pope:

37. Rhodes, History of the U.S., Vol. III, p. 388.

38. Rhodes, History of the U.S., Vol IV, pp. 49, 50.

39. Same, Vol. IV, p. 132.

40. Same. Vol. IV, p. 186.

"Just think of the immense amount of telegraphing I have to do, and then say whether I can be expected to give you any details as to the movements of others even when I know them."⁴¹

72. However, Halleck supported Grant effectively during his campaign which ended in the taking of Vicksburg,⁴² and no record has been found of any friction between President Lincoln and Secretary Stanton on the one hand, and Halleck on the other. The anonymous author of the article on Halleck in the Encyclopedia Britannica sums up his shortcomings and abilities by saying:

"While his interference with the dispositions of the commanders in the field was often disastrous, his services in organizing and instructing the Union forces were always of high value."

73. To Halleck's credit is also his statement of the functions of the General of the Army as follows:

"The great difficulty in the office of 'General-in-Chief' is that it is not understood by the country. The responsibility and odium thrown upon it do not belong to it. I am simply a military adviser of the Secretary of War and the President, and must obey and carry out what they decide upon, whether I concur in their decisions or not ... It is my duty to strengthen the hands of the President as Commander-in-Chief, not to weaken them by factious opposition. I have, therefore, cordially cooperated with him in any plan decided upon, although I have never hesitated to differ in opinion."⁴³

74. The duties which Halleck described himself as performing are those of a Chief of Staff, rather than those of a general commanding the army or any smaller unit. After his relief from duty as General of the Army, Halleck himself said that, though he had been called by that title in official orders and correspondence, and though he had issued orders on routine matters, he had never in fact commanded the Army; but that his true position was military adviser to the President and Secretary of War.⁴⁴

Ulysses S. Grant, 1864-1869

75. On March 9, 1864, President Lincoln commissioned Grant as lieutenant general and on March 12 placed him in command of all the armies of the United States, relieving Halleck, who was detailed as Chief of Staff. Before accepting

41. Same, Vol. IV, p. 121.

42. Same Vol. IV, pp. 161, 167.

43. Letter from Halleck to Sherman, Feb. 16, 1864, quoted by Bvt Maj. Gen. James B. Fry, in Military Miscellanies, pp. 93, 94.

44. This statement is ascribed to Gen. Halleck by Brig. Gen. George W. Davis, in a letter quoted by Maj. Gen. William H. Carter, in "Creation of the American General Staff", Senate Doc. 119, 68th Cong., 1st Sess., p. 38.

this commission and assignment, General Grant stipulated that he was to exercise actual command of the armies, without interference from the War Department⁴⁵ President Lincoln gave Grant a free hand as General of the Army, even to the extent of denying to himself full knowledge of the general's plans.⁴⁶ As will be shown later, Secretary Stanton and General Halleck did not always follow the President's example.

76. As has been pointed out,⁴⁷ the original meaning of lieutenant-general was the general commanding in place of the king or other head of the state. That definition may not have been in the minds of the members of Congress who passed the act authorizing that rank for him, or of the President who approved that act; but it accurately describes what Grant was in fact.

77. Bvt. Major General James B. Fry says, no doubt correctly, that, after his detail as Chief of Staff, Halleck "continued until the close of the war to perform, under that title, the same duties that he had theretofore performed under the designation of 'General-in-Chief'".⁴⁸ The above statement is supported by the quotations already made from Halleck.⁴⁹

78. Until the close of hostilities, Grant set up and maintained his headquarters in the field, where he remained near the headquarters of the Army of the Potomac, commanded by Meade. Halleck, as Chief of Staff of the armies, remained at Washington. This arrangement had the advantage of placing Grant physically with the largest and most important of the armies under his command, and permitted him to prod Meade, a less aggressive commander than he, and probably contributed a great deal to the success of the campaign and to winning the war. However, that solution of the command problem also had serious disadvantages. One of them may be stated in Grant's own words:

"Meade's position afterwards proved embarrassing to me if not to him. He was commanding an army and, for nearly a year previous to my taking command of all the armies, was in supreme command of the Army of the Potomac - except from the authorities at Washington. All other general officers occupying similar positions were independent in their commands so far as any one present with them was concerned. I tried to make General

45. Lt. Gen. John M. Schofield, *Forty-Six Years in the Army*, pp. 361, 362, 546.

46. Lt. Gen. John M. Schofield, *Controversies in the War Dept.*, *Century Magazine* for Aug. 1897, Vol. 54, p. 578. This magazine article was republished by Gen. Schofield with minor changes as Chapter XXII of his book mentioned in the preceding note. The passage to which the present note refers appears in the book on p. 409.

47. In par. 2 of this paper.

48. Fry, *Military Miscellanies*, pp. 71, 72.

49. In par. 73 of this paper.

Meade's position as nearly as possible what it would have been if I had been in Washington or any other place away from his command. I therefore gave all orders for the movements of the Army of the Potomac to Meade to have them executed."⁵⁰

79. General Grant goes on to say that it sometimes became necessary for him to give orders direct to troops near him, and not through General Meade.

80. On the other hand, Grant's presence with the Army of the Potomac made more difficult the exercise of his command over other forces. This is vividly shown by Early's almost successful cavalry raid on Washington in July 1864. It will be recalled that the Confederates advanced down the Shenandoah Valley and through Maryland, and actually got into the District of Columbia. The forces available for the defense of the national capital were so few that the clerks in the government departments were armed and sent out. Union troops hastily summoned from the south arrived in Washington the same day as Early's forces⁵¹ and stopped Early at Fort Stevens, still standing a mile south of Walter Reed Hospital and only seven miles from the Capitol. Charles A. Dana, Assistant Secretary of War, sent the following dispatch from Washington to Grant, in the field in Virginia, just after the Confederates had been turned back:

"General Halleck will not give orders except as he receives them; the President will give none, and until you direct positively and explicitly what is to be done, everything will go on in the deplorable and fatal way in which it has gone on for the past week."⁵²

81. It can not be doubted that, if Grant had had his headquarters in Washington, and had been there himself, the capital would not have come so near being captured.

82. Grant had been under Halleck's command during his campaigns in Tennessee and Mississippi in the first half of 1862, and the two had not gotten along well with each other. Grant's Memoirs contain numerous passages showing his rancor against Halleck.⁵³ Grant says that in September 1864 he left his headquarters in front of Petersburg; and, without stopping at Washington, went in person to Charlestown, West Virginia, to give orders to Sheridan, because -

"I knew it was impossible for me to get orders through Washington to Sheridan to make a move, because they would be stopped there and such orders as Halleck's caution (and that of the Secretary of War) would suggest would be given instead, and would, no doubt, be contradictory to mine."⁵⁴

50. Grant, Personal Memoirs, Vol. II, pp. 117-118.

51. Grant, Personal Memoirs, Vol. II, pp. 305, 306.

52. Quoted in Rhodes, History of the United States, Vol. IV, p. 503.

53. Vol. I, pp. 325-329, 370, 579, and the citations in the next two footnotes.

54. Grant, Personal Memoirs, Vol. II, p. 327.

83. With respect to an order which he sent Sheridan through Washington a few weeks later, Grant writes:

"But this order had to go through Washington where it was intercepted; and when Sheridan received what purported to be a statement of what I wanted him to do it was something entirely different."⁵⁵

84. General Grant had his troubles with Secretary Stanton, too. On one occasion Stanton countermanded an order of President Lincoln. Grant went on to say:

"This was characteristic of Mr. Stanton. He was a man who never questioned his own authority, and who always did in war time what he wanted to do."⁵⁶

85. Elsewhere Grant said:

"Mr. Stanton never questioned his own authority to command, unless resisted. He cared nothing for the feelings of others. In fact it seemed to be pleasanter to him to disappoint than to gratify. He felt no hesitation in assuming the functions of the executive, or in acting without advising with him. If his act was not sustained, he would change it - if he saw the matter would be followed up until he did so."⁵⁷

86. Near the end of his Memoirs, Grant sums up the conduct of President Lincoln and Secretary Stanton toward the generals under them as follows:

"Mr. Lincoln was not timid, and he was willing to trust his generals in making and executing their plans. The Secretary was very timid, and it was impossible for him to avoid interfering with the armies covering the capital when it was sought to defend it by an offensive movement against the army guarding the Confederate capital. He could see our weakness, but he could not see that the enemy was in danger."⁵⁸

87. General Sherman also had a dispute with Secretary Stanton. After Lee had surrendered to Grant at Appomattox, the only Confederate force of any size was Johnston's command in North Carolina, hotly pursued by Sherman. Sherman and Johnston met near Durham three days after Lincoln's death; and, subject to approval of their superiors, signed a convention suspending hostilities, providing for the recognition of the existing governments of the states which had seceded, guaranteeing the political rights and franchises of their inhabitants, and containing other stipulations of a civil nature.

55. Same, p. 337.

56. Grant, Personal Memoirs, Vol. II, p. 506.

57. Same, p. 536.

58. Same, p. 537.

After a cabinet meeting, President Johnson disapproved the convention. Grant was sent to Sherman's headquarters, informed him of this action, and directed him to notify General Johnston of it and to end the truce. This was done, and Johnston then surrendered on the same terms as Grant had extended to Lee. So far the action of the administration was correct and just; but Secretary Stanton went further and ordered Grant, after arrival at Sherman's headquarters, to "direct operations against the enemy"; and gave a statement to the press publishing a previous order to Grant not to discuss political questions with Lee and permitting the incorrect inference that a copy of that order had been communicated to Sherman. Stanton also said publicly that Sherman's action would probably open the way for Jefferson Davis, the fugitive President of the Confederacy, to escape to Europe with a large amount of specie. The northern newspapers followed Stanton's cue and berated Sherman unmercifully. Sherman was so incensed that, at the review of his army in Washington a month later, he refused to shake hands with Stanton when the two met in the President's reviewing stand.⁵⁹

88. President Johnson's term (April 15, 1865 - March 4, 1869) was darkened by his bitter quarrel with the Republican majority in Congress about reconstruction, culminating in 1868 in his impeachment by the House of Representatives and trial before the Senate, in which the prosecution failed of obtaining the two-thirds necessary to conviction by the margin of one vote. During all this term Grant was general in chief, at first with the rank of lieutenant general, and from August 31, 1866, with the rank of general. With the close of hostilities and the succession of Johnson to the presidency, Secretary Stanton gradually undertook to assume more and more power. General Grant says:

"Owing to his natural disposition to assume all power and control in all matters that he had anything whatever to do with, he boldly took command of the armies, and, while issuing no orders on the subject, prohibited any order from me going out of the adjutant-general's office until he had approved it. This was done by directing the adjutant general to hold any orders that came from me to be issued from the adjutant-general's office until he had examined them and given his approval. He never disturbed himself, either, in examining my orders until it was entirely convenient for him; so that orders which I had prepared would often lie there three or four days before he would sanction them."⁶⁰

89. Secretary Stanton, as the deputy of the President, was within his legal rights in his actions above described; but it was bad policy for him to interfere in matters of detail. On January 29, 1866, Grant, still lieutenant general and general of the army, addressed a letter to Secretary Stanton,

59. Sherman, *Memoirs*, Vol. II, p. 356-367, 377; Grant, *Memoirs*, Vol. II, pp. 514-517; Lloyd Lewis, *Sherman, Fighting Prophet*, pp. 544-555, 577.

60. Grant, *Personal Memoirs*, Vol. II, p. 105. See also Schofield, *Controversies in the War Dept.*, *Century Magazine*, Aug. 1897, Vol. 54, pp. 578, 579; same author, *Forty-Six Years in the Army*, p. 411.

saying that, since General Scott's difficulties with Secretary Marcy in Polk's administration, the command of the army had virtually passed to the Secretary of War, that Scott had had his headquarters in New York from that time until the outbreak of the Civil War,⁶¹ that he (Grant) has now brought his headquarters to Washington and finds his position there embarrassing. He therefore states what he considers his duties and place, and asks to be restored to them and it. He continues:

"The entire adjutant-general's office should be under the entire control of the general-in-chief of the army. No orders should go to the army, or the adjutant-general, except through the general-in-chief. Such as require the action of the President would be laid before the Secretary of War, whose actions would be regarded as those of the President. In short, in my opinion, the general-in-chief stands between the President and the army in all official matters, and the Secretary of War is between the Army (through the general-in-chief) and the President."⁶²

90. There is no written answer by Stanton of record, but Grant says that "the Secretary apologetically restored me to my rightful position . . . But he soon lapsed again and took control much as before."⁶³ Nevertheless, the dispute continued and finally reached such a state that early in August 1867 Grant declared that, if the President did not remove Stanton, he (Grant) would resign.⁶⁴ President Johnson suspended Stanton from office a few days later, and therefore Grant did not resign.

91. Until the President's attempt to remove Secretary Stanton, the relations between Johnson and Grant were normal. Under the tenure of office act of March 2, 1867,⁶⁵ the holder of a civil office might not be summarily removed by the President. All that the President could do was to suspend the officer of whom he desired to rid himself, and inform the Senate of the suspension and the President's desire to remove him. If the Senate consented

61. This statement of Gen. Grant is not wholly accurate. See pars. 54 and 55 of this paper.

62. Sherman, *Memoirs*, Vol. II, pp. 449, 450. Grant's own *Memoirs* do not give this remonstrance in full, though he mentions it on the page cited in note 60.

63. Grant, *Memoirs*, Vol. II, p. 105; Sherman, *Memoirs*, Vol. II, p. 446.

64. Schofield, *Controversies in the War Dept.*, *Century Magazine*, Aug. 1897, Vol. 54, p. 579; same author, *Forty-Six Years in the Army*, p. 413.

65. 14 Stat. 430.

thereto, the removal took place; if it declined to do so, the officer resumed the performance of his duties.⁶⁶ Pursuant to the above Act, when Stanton refused to comply with President Johnson's invitation to resign, the latter, on August 12, 1867, suspended him, designated General Grant as Secretary of War ad interim, and so notified the Senate when it next met the following December. Grant moved into the room of the Secretary in the War Department building, and discharged the duties of that office until January 13, 1868; when the Senate passed a resolution declining to concur in the removal of Stanton. Grant then moved out of the Secretary's room and across the street to his office as general of the army.⁶⁷ When he did so, he delivered the key to the Secretary's room to General Townsend, the Adjutant General of the Army, who turned it over to Stanton, who resumed possession of the office. President Johnson charged Grant with bad faith in not holding on to the Secretary's room and in not continuing to perform the duties of that office. This angered Grant,⁶⁸ and he became extremely hostile to Johnson, and spoke of him in the most uncomplimentary terms.⁶⁹

92. When the impeachment of President Johnson failed, Stanton resigned, and the Senate confirmed the nomination of Major General John M. Schofield as Secretary of War. He assumed office May 28, 1868, and served as Secretary of War during the last nine months of President Johnson's term. His relations with Grant, then general of the army, were most satisfactory. Grant was absent from Washington much of the time; and Schofield says that during such periods:

"It devolved upon me to exercise all the functions of 'commander-in-chief of the army'— functions which it is usually attempted to divide among three,— the President, the Secretary of War, and the general-in-chief, —without any legal definition of the part which belongs to each. Of course 'the machine' ran very smoothly in the one case, though there had been much friction in the other."⁷⁰

66. This act had been passed by Congress over the veto of President Johnson, who contended that it was unconstitutional (James D. Richardson, Messages and Papers of the Presidents, Vol. VI, p. 492). Long afterward, the Supreme Court, in Myers v. United States, 272 U.S. 52 (1926), held unconstitutional an act relating to the removal of postmasters, but otherwise substantially the same as the act above cited; so there can be no doubt that Johnson was right.

67. In the building only recently torn down at the southwest corner of 17th and F Streets.

68. Sherman, Memoirs, Vol. II, pp. 420, 423, 427.

69. Schofield, Controversies in the War Department, Century Magazine, Aug. 1897, Vol. 54, pp. 580, 581; same author, Forty-Six Years in the Army, p. 416.

70. Schofield, Controversies in the War Department, Century Magazine, Aug. 1897, Vol. 54, p. 582; same author, Forty-Six Years in the Army, pp. 420, 421.

93. It appears from the foregoing historical summary that from January to May 1868 Stanton was holding office as Secretary of War contrary to the wishes of the President, and in spite of the latter's efforts to get rid of him; and that from January 1868 to March 1869 the President and the General of the Army were bitterly hostile to each other. These animosities and conflicts militated against efficiency, and prevented any strong and unified command of the army.

William T. Sherman, 1869-1883

94. In December 1868, after Grant's election as President, but before his inauguration, he told Sherman that he intended to detail the latter as General of the Army, and that he wanted a change made in the control of the staff officers of the Army and a cessation of the practice of the Secretary of War giving orders to them,⁷¹ all in accordance with Grant's letter of January 29, 1866, already mentioned herein.⁷² When Grant became President, March 4, 1869, he vacated the office of general; and, pursuant to his conversation of the preceding December, he at once appointed Sherman general, and directed the issue of G.O. 11, Headquarters of the Army, March 8, 1869, which has already been quoted in paragraph 44 of this paper, and which requires the chiefs of all the staff corps to report to and act under the orders of the general of the army. The same day, by G.O. 12, General Sherman assumed command of the Army, and announced as a part of "his" staff the Adjutant General, Inspector General, Quartermaster General, and other principal staff officers of the Army. The same order directed the commanding generals of military departments to give special attention to the economical administration of all branches of the service, whether line or staff, and to this end to exercise command of every part of the Army within the limits of their command. The above order was signed by John M. Schofield, President Johnson's last Secretary of War, holding over for a short time in President Grant's administration at the latter's desire, in order to inaugurate the new system of command. Then Grant appointed as Secretary of War Bvt. Major General John A. Rawlins, who had been his chief of staff in the field during the Civil War. The chiefs of the several staff corps and departments did not like the above order. Sherman says that they had grown to believe themselves, not officers of the Army, but a part of the War Department, a civil branch of the government. Members of Congress represented to the President that the order was illegal. In consequence, G.O. 28, Headquarters of the Army, March 27, 1869,⁷³ by direction of the President revoked all of G.O. 11 issued nineteen days earlier except the assignment of General Sherman to the command of the Army. The new order cut down the powers of the general of the army to what they had previously been, by directing that all official business which might require the action of the President or the Secretary of War be submitted to the latter, not by or through the general of the army, but by

71. Sherman, Personal Memoirs, Vol. II, p. 438.

72. For the letter mentioned, see par. 89 of this paper.

73. Quoted in par. 45 of this paper.

the chiefs of staff, corps, departments, and bureaus.⁷⁴ Sherman went to the President to ask the cause of the revocation, and was told that the action had been taken because of the assertions of Congressmen that the first order was illegal, and that he (Sherman) and Rawlins should draw a line of separation between their functions satisfactory to both. Brigadier General George Washington Davis says, "It is almost certain that if Executive disapproval had been withheld congressional revocation would have immediately resulted."⁷⁵

95. Several times Secretary Rawlins issued orders to military personnel without notifying Sherman, but apologized when the matter was brought to his attention. Sherman in his Memoirs continues:

"This habit is more common at Washington than any place on earth, unless it be in London, where nearly the same condition of facts exists. Members of Congress daily appeal to the Secretary of War for the discharge of some soldier on the application of a mother, or some young officer has to be dry-nursed, withdrawn from his company on the plains to be stationed near home. The Secretary of War, sometimes moved by private reasons, or more likely to oblige the members of Congress, grants the order, of which the commanding general knows nothing till he reads it in the newspapers. Also, an Indian tribe, goaded by the pressure of white neighbors, breaks out in revolt. The general-in-chief must reenforce the local garrisons not only with men, but horses, wagons, ammunition, and food. All the necessary information is in the staff bureaus in Washington, but the general has no right to call for it, and generally finds it more practicable to ask by telegraph of the distant division or department commanders for the information before making the formal orders. The general in actual command of the army should have a full staff, subject to his own command. If not, he cannot be held responsible for results."⁷⁶

96. Secretary Rawlins died six months after taking office, and Sherman became acting Secretary of War, in addition to his permanent assignment as general in chief. With reference to this, he says:

"I realized how much easier and better it was to have both offices conjoined. The army then had one constitutional commander-in-chief of both army and navy, and one actual commanding general, bringing all parts into real harmony. An army to be useful must be a unit, and out of this has grown the saying, attributed to Napoleon, but doubtless spoken before the days of Alexander, that an army with an inefficient commander was better than one with two able heads."⁷⁷

74. Sherman, Personal Memoirs, Vol. II, pp. 441, 443; Lewis, Sherman, Fighting Prophet, pp. 601, 602; Schofield, Controversies in the War Department, Century Magazine for Aug. 1897, Vol. 54, p. 582; same author, Forty-Six Years in the War Department, p. 421.

75. General Davis is thus quoted by Major General William H. Carter in Creation of the American General Staff, Senate Doc. 119, 68th Cong., 1st Session, p. 39.

76. Vol. II, p. 443.

77. Sherman, Personal Memoirs, Vol. II, pp. 443, 444.

97. After Rawlins' death President Grant called upon Sherman to submit a list of volunteer generals of good record in the Civil War, from whom he might choose a new Secretary of War. At the top of the list Sherman placed the name of William W. Belknap of Iowa, whom the President appointed. Sherman's Memoirs continue:

"General Belknap surely had at that date as fair a fame as any officer of volunteers of my personal acquaintance. He took up the business where it was left off, and gradually fell into the current which led to the command of the army itself as of the legal and financial matters which properly pertain to the War Department. Orders granting leaves of absence to officers, transfers, discharges of soldiers for favor, and all the old abuses, which had embittered the life of General Scott in the days of Secretaries of War Marcy and Davis, were renewed . . . Things went on from bad to worse . . ."78

98. To bring the matter to an issue, on August 17, 1870, Sherman wrote a long letter of protest⁷⁹ to Secretary Belknap, asking that the new Army Regulations about to be drawn clearly define the duties of the general of the army, and suggesting that articles 48 and 49 of the Regulations of 1847, quoted in paragraph 38 of this paper, be followed as a model. Secretary Belknap never answered the letter.⁸⁰ Sherman frequently spoke about this matter to President Grant, who agreed in principle with Sherman, and promised to bring the Secretary and the general of the army together and settle a just line of separation of their duties, but never did so.⁸¹ In 1874, therefore, with the assent of the President and Secretary Belknap, General Sherman moved the headquarters of the army to St. Louis.⁸² His Memoirs state:

"The only staff I brought with me were the aides allowed by law, and, though we went through the forms of 'command', I realized that it was a farce, . . ."83

98a. What General Sherman actually did is thus stated by Brig. Gen. George W. Davis:

"The true position of General Sherman was that of a distinguished officer to whom was permitted to exercise the authority of his own notion to make some minor military assignments, details, and transfers, and he rendered opinions upon such professional matters as were referred to him

78. Same, pp. 444, 445.

79. Text in Sherman's Memoirs, Vol. II, pp. 446-449.

80. Sherman, Personal Memoirs, Vol. II, p. 450.

81. Same, pp. 446, 450, 451.

82. G.O. 108, War Dept., Sep. 3, 1874.

83. Sherman, Personal Memoirs, Vol. II, p. 454.

by the Secretary of War or the President. He could not assign a general officer to command or a regiment to a station unless or until he was authorized so to do by the Secretary, nor could he make any orders or dispositions involving the expenditure of public funds for any purpose save his own travel."⁸⁴

99. In 1876 Secretary Belknap was impeached on the charge of selling post traderships, and resigned. His successor as Secretary of War was Alphonso Taft, father of the President and grandfather of the Senator of the same surname. By Secretary Taft's advice, President Grant ordered Sherman to move the headquarters of the Army back to Washington, which he did.⁸⁵ The same order contained the following direction:

"... all orders and instructions relative to military operations, or affecting the military control and discipline of the Army, issued by the President through the Secretary of War, shall be promulgated through the General of the Army, and the Departments of the Adjutant-General and the Inspector General shall report to him and be under his control in all matters relating thereto."⁸⁶

100. After quoting the above, General Sherman says in his Memoirs, "This was all I had ever asked."⁸⁷ Sherman records that his relations with Taft and the four succeeding Secretaries of War were good.⁸⁸

101. In the Army Regulations of 1881, there appeared two sections, 125 and 126, quoted in full in paragraph 46 of this paper, on the duties of the general of the army. Section 125 substantially copied section 49 of the edition of 1847, and said that the military establishment is under the orders of the general of the army in all that pertains to discipline and military control. Section 126 copied the direction given in G.O. 28, War Department, April 6, 1876, that all orders and instructions relating to military operations, or affecting military control and discipline, be promulgated through the general of the army. As has been said, these two sections with slight verbal changes were repeated in successive editions of the Army Regulations so long as there was a general of the army.

84. Gen. Davis is thus quoted by Maj. Gen. William H. Carter in Creation of the American General Staff, Senate Doc. 119, 68th Cong., 1st Session, p. 38.

85. G.O. 28, War Dept., April 6, 1876.

86. G.O. 28, War Dept., April 6, 1876.

87. Vol. II, p. 455.

88. Vol. II, p. 455.

Philip H. Sheridan, 1883-1888

102. On November 1, 1883, Lt. Gen. Philip H. Sheridan succeeded Sherman as general of the army (G.O.'s 71 and 78, Headquarters of the Army, Oct. 13 and Nov. 1, 1883). He announced as his staff only his personal aides. How Sheridan began his service in this important position is thus stated by General Schofield:

"General Sheridan had entered upon his duties with all the soldierly courage and confidence of his nature, declaring his purpose to regain the ground lost by General Sherman when, to use Sheridan's own expressive words, 'Sherman threw up the sponge.' He announced his interpretation of the President's order assigning him to the 'command of the army' as necessarily including all the army, not excepting the chiefs of the staff departments; and he soon gave evidence of his faith by ordering one of those chiefs on an inspecting tour, or something of that kind, without the knowledge of the Secretary of War. Thus the Secretary found the chief of one of the bureaus of his department gone without his authority, he knew not where. It was not difficult for the Secretary to point out to the general, as he did in writing, in a firm, though kind and confidential way, that such could not possibly be the true meaning of the President's order. No attempt appears to have been made to discuss the subject further, or to find any ground broad enough for both Secretary and general to stand upon."⁸⁹

John M. Schofield, 1888-1895

103. In 1888, Lt. Gen. John M. Schofield succeeded Sheridan as general of the army. It will be remembered that he had been Secretary of War during the last nine months of President Johnson's administration. Many generals of the army have been acting Secretary of War for brief periods when the office of Secretary was vacant or the incumbent absent, but Schofield was the only man since the early days of our government who had held at one time the office of Secretary of War and at another the position of ranking officer of the Army. He was the only man since the War of 1812 who had had practical experience in both positions and had viewed the problem from both sides. What he said is therefore entitled to the greatest weight. With respect to the situation at the time he became General of the Army, General Schofield wrote:

"It is not too much to say that the condition of the War Department at that time was deplorable."⁹⁰

"He" (General Sheridan, Schofield's predecessor) "had long ceased, as General Sherman and General Scott had before him, not only to command, but to exercise any appreciable influence in respect to either the command or the administration."⁹¹

89. Schofield, *Forty-Six Years in the Army*, pp. 471, 472. See also same book, p. 421; and Gen. Schofield's article in the *Century Magazine* for Aug. 1897, Vol. 54, p. 583.

90. Schofield, *Forty-Six Years in the Army*, p. 468.

91. Same, p. 469.

104. General Schofield went on to say that each head of a staff department in his own sphere was clothed with all the authority of the Secretary of War, and that every officer in the army had to obey their orders. The Adjutant General issued orders, using the name of the Secretary of War, or the general of the army, without necessarily consulting either. General Schofield continued:

"Yet it did seem to me passing strange to sit in my office about noon, where I had been all the day before, and learn from the New York papers what orders I had issued on that previous day!"⁹²

105. With respect to the need for a chief of staff of the Army, General Schofield wrote:

"It is only in this country, where the chief of state has generally no military training, and his war minister the same, that a chief of staff of the army is supposed to be unnecessary."⁹³

106. General Schofield thus stated his conclusions:

"Upon my assignment to the 'command of the army' in 1888, I determined to profit so far as possible by the unsatisfactory experience of Generals Scott, Grant, Sherman, and Sheridan."

* * * * *

". . . long study of the subject, at the instance of Generals Grant and Sherman, earnest efforts to champion their views, and knowledge of the causes of their failure, had led me to the conclusion heretofore suggested, namely, that under the government of the United States an actual military commander of the Army is not possible, unless in an extreme emergency like that which led to the assignment of Lieutenant-General Grant in 1864; and that the general-in-chief, or nominal commanding general, can at most be only a 'chief of staff', - that or nothing, whatever may be the mere title under which he may be assigned to duty by the President."⁹⁴

106a. The trouble was, however, deeper than a mere misnomer. The delegation of such extensive powers to the chiefs of the staff departments, and the failure to delegate any responsibilities of importance to the General of the Army, had deprived him as General Schofield himself said, of any appreciable influence.⁹⁵

92. Same, p. 470.

93. Schofield, Controversies in the War Department, Century Magazine for Aug. 1897, Vol. 54, p. 578; Schofield, Forty-Six Years in the Army, p. 410.

94. Schofield, same article, p. 583; same book, pp. 421, 422.

95. See par. 103, ante. See also pars. 98 and 98a.

106b. As to what he did to improve the situation, General Schofield wrote:

"As the first step in the experimental course decided upon, I sent an order in writing to the adjutant-general, directing him never, under any circumstances, to issue an order dictated by me, or in my name, without first laying it before the Secretary of War . . ."

"the adjutant-general had acquired the habit of issuing nearly all orders to the army without the knowledge of any one of his superiors - the President, the Secretary of War, or the general-in-chief. In fact, the adjutant-general had in practice come very near being 'commander-in-chief.'"96

107. As to the result of his efforts, General Schofield wrote:-

"Some time and much patience were required to bring about the necessary change, but ere long the result became very apparent. Perfect harmony was established between the War Department and the headquarters of the army, and this continued, under the administrations of Secretaries Proctor, Elkins, and Lamont, up to the time of my retirement from active service. During all this period, namely, from 1889 to 1895, under the administrations of Presidents Harrison and Cleveland, the method I have indicated was exactly followed by the President in all cases of such importance as to demand his personal action, . . ."

"The orders issued were actually the President's orders. No matter by whom suggested or by whom formulated, they were in their final form understandingly dictated by the President, and sent to the army in his name by the commanding general, . . ."97

Nelson A. Miles. 1895-1903

The War with Spain - Elihu Root, Secretary of War

108. Upon the retirement of Gen. Schofield in 1895, the President assigned the senior major general, Nelson A. Miles, to command the army.98

96. Schofield, magazine article above cited, p. 583; Schofield, book above cited, pp. 422, 423.

97. Same magazine article, p. 583; same book, pp. 423.

98. G.O. 53, W.D., Oct. 2, 1895; G.O. 54, Hdqrs. of the Army, Oct. 5, 1895.

He was later made lieutenant-general,⁹⁹ and served until his retirement August 8, 1903. The great event of his tour was the Spanish-American War in 1898. The effort of our army in that war was marked by confusion, shortages, and poor performance, particularly in the field of logistics. Notable examples of this are disclosed by the testimony before and the report of the Commission appointed by the President to investigate the conduct of the War with Spain, composed mainly of veterans of the Civil War of high rank, headed by Grenville M. Dodge, who had been a major general of volunteers in that war, and later chief engineer of the Union Pacific Railroad.

109. Let us begin with the matter of co-operation between the services. The Commission's report says¹⁰⁰ that on May 31, 1898, the Navy Department informed the Secretary of War that its men and boats could be spared only to a limited degree if at all, to land troops. This message was never transmitted to General Miles, the General of the Army, or to General Shafter, the commander of the expedition. They relied upon the hearty co-operation of the Navy, promised by its representative at Tampa, the port of embarkation, and took along only a few lighters and tugs. If there had existed a general staff, it may be presumed that it would have effected proper co-ordination with the Navy.

110. The situation at Tampa was thus described to the Commission by Theodore Roosevelt, who was then lieutenant-colonel of the First U.S. Volunteer Cavalry (Rough Riders):

"When we reached Tampa we had twenty-four hours of utter and absolute confusion. There was no one to show us where we were to camp. The railway system there was in a condition of absolute congestion. We were dumped miles out of Tampa, at least the first division. The second division, which included the six troops under me, was brought into town. We were then told we were to be carried on some train to near our camp. We were kept there until the evening and I then had to take matters into my own hands so as to get my horses watered and fed, and we had to buy food for the troopers. We finally got out to camp and after we got in camp, after the first twenty-four hours, everything went smoothly. I think they might have had somebody to meet us and show us where the camp was.

"Q. Were you reimbursed for the outlay you made in the purchase of your supplies?

"A. Oh, Lord, no."¹⁰¹

99. Pursuant to sec. 2, Act of June 6, 1900, and sec. 1, Act of Feb. 2, 1901, 31 Stat. 655, 748.

100. Report of the Commission on the conduct of the W.D. in the War with Spain. Vol. I, p. 224.

101. Report of the Commission on the Conduct of the W.D. in the War with Spain, Vol. V, p. 2257.

"When we moved down to Port Tampa I again thought there was a good deal of higglety-pigglety business, although I can't say how much was due to the congested condition of the track. We were told to go to a certain track at 12 o'clock and take a train. We got there, and then Colonel Wood and I wandered up and down trying to find somebody who knew where the train was, and we couldn't find anybody and at 3 o'clock we were ordered to move to another track, and at 6 o'clock we got some coal cars. I believe these coal cars were not intended to take us, but we construed it that they were and went down on them and so got to the quay. You see, we had been told if we didn't get aboard by daybreak we would get left, and we didn't intend to get left, and we took these coal cars and slipped down."¹⁰²

"But so far as I know, the regiments did not know in advance what transports they were to get on - at least none with whom I was brought in contact had been told what transports they were to go on. We reached Port Tampa early in the morning. There were a lot of regiments there; the trains backed up everywhere along the quay, and the quay was swarming with some 10,000 men - soldiers, mostly. Transports were pulling in from midstream, but nobody could tell us what transport we were to go on. Finally General Shafter told us to find the quartermaster, Colonel Humphrey. I expected, of course, that at a time like that the quartermaster would be directing things from his office, where you could get at him, as he was the only man to tell us what transports we were to board. He was not in his place and had not been there for some time, and nobody could tell us where he was, and Colonel Wood and I started on a hunt for him in opposite directions, and finally we found him, almost at the same time, and he allotted us the Yucatan. The Yucatan was coming in at the dock, and by that time we found there was a great scramble for the transports, and Colonel Wood jumped in a boat and went out in midstream. I happened to find out by accident that the transport Yucatan had also been allotted to the Second Infantry and the Seventy-first New York, and I ran down to my men and left a guard and took the rest and rushed them down to the dock and got on the Yucatan, holding the gangplank against the Second Infantry and the Seventy-first New York, and then letting aboard only the Second Infantry, as there was no room even for all of them; and I understand the Seventy-first spent the next two nights on a train. We ultimately kept four companies of the Second Infantry aboard with us, but we had the Yucatan."¹⁰³

102. Report of the Commission on the Conduct of the W.D. in the War with Spain, Vol. V, p. 2257.

103. Report of the Commission on the Conduct of the W.D. in the War with Spain, Vol. V, p. 2258.

111. Leonard Wood, then colonel of the same regiment, thus described its embarkation:

"Q. How did you first find out what vessel you were going on?

"A. I found General Humphrey, and he didn't know what transport we were to have, and I said, 'We must go on some transport;' and he said, 'There are three or four out there in the stream. There is the Yucatan; you can go on her if you can get her.' . . . I got into a rowboat with Colonel Osgood and rowed out . . . I got aboard and said, 'This transport is assigned me by order of the commanding general.'"

* * * * *

Q. This was not a seizure of the ship? He told you you could take the Yucatan?

A. He didn't tell me I could take the Yucatan. He said, 'You can take any one out there.'"¹⁰⁴

112. In its report, the Commission on the conduct of the war stated that there were shortages of clothing, tentage, bedding, shoes, stores, and fuel.¹⁰⁵ Most of General Shafter's troops were sent, first to Florida and then to Cuba, in summer, in woolen uniforms and underwear. The congestion on the railroads leading to Tampa was so great that 1,000 cars were sidetracked, some of them as far north as Columbia, S. C.¹⁰⁶

113. The capacity of the transports was overestimated, and they were not loaded systematically. "A battery with its guns and horses would be placed in one vessel and its ammunition in another."¹⁰⁷ Supplies intended for Cuba were loaded on ships bound for Puerto Rico.¹⁰⁸ Vessels arrived without invoices showing what they carried.¹⁰⁹ Ambulances and medical supplies were distressingly short.¹¹⁰ "Again and again agents of private organizations had

104. Same report, Vol. VII, pp. 3605, 3606. For a further description of the situation, see Russell A. Alger, *The Spanish American War*, pp. 65-68.

105. Report of the Commission, Vol. I, pp. 128, 129; Nelson A. Miles, *Serving the Republic*, p. 275.

106. Report of the Commission, above cited, pp. 132, 133.

107. Report of the Commission, pp. 134, 135.

108. Report of the Commission, pp. 137, 175.

109. Report of the Commission, p. 137.

110. Report of the Commission, pp. 173-176, 187.

on hand and ready for issue an abundance of necessary and needed supplies, when officers of the Government, whose duty it was to furnish them, did not have them and therefore could not give them out."¹¹¹

114. To what extent, if at all, were these shortages chargeable to the higher command of the Army and to the system according to which it was organized? Let us consider the matter of planning. The Cuban insurrection had been going on for several years. The Spaniards could not suppress it, but the Cubans seemed unable to win it unaided. The Spanish policy of concentrating the population in towns or camps, so that they could not support and feed the insurgents, caused great suffering, and aroused indignation in the United States. In consequence of these circumstances, relations between the United States and Spain had long been strained. The sinking of the battleship Maine in Havana harbor on February 15, 1898, by an explosion of uncertain origin, caused a further exacerbation of the situation. On March 9, 1898, Congress made an appropriation of \$50,000,000, to be expended at the discretion of the President for national defense.¹¹² On April 25, 1898, Congress passed an act declaring that war had existed since April 12.¹¹³ There was therefore ample notice that war was coming;¹¹⁴ but nevertheless no war plans, strategical or logistical, had been drawn prior to its declaration. The reason is obvious; there was no agency or officer whose duty it was to draw such plans, unless it was the general of the army. No law, regulation, or order imposed that duty upon him; and he had no staff, except his aides, to help him do it.

115. After the declaration of war numerous conferences were held at the White House on strategy.¹¹⁵ At these meetings, and at other times in writing, plans of campaign were proposed. When that war was over, Secretary of War Russell A. Alger, who had been a colonel and brevet major general in the Civil War, and General Miles each wrote a book, in which each adversely criticized the plans proposed by the other. General Miles says that on May 8 he was ordered to take 70,000 men to Cuba and capture Havana, but that he was obliged to point out that that city was defended by 125,000 troops with over 100 field guns and 125 heavy guns in fortified positions; and that the Spaniards had 1,000 rounds of small arms ammunition per man, whereas our forces did not have enough for a single battle and our factories could not manufacture enough in eight weeks' time.¹¹⁶

116. Secretary Alger scatters uncomplimentary remarks about General Miles throughout his book. Let us take one example. In written recommendations which the Secretary quotes in full,¹¹⁷ the general several times proposed that

111. Report of the Commission, p. 176.

112. 30 Stat. 274.

113. 30 Stat. 364.

114. Sec. Alger so admitted in his book, *The Spanish-American War*, pp. 4-5.

115. Alger, book cited, pp. 46, 48.

116. Miles, book cited, pp. 272-273.

117. Alger, book cited, pp. 49-55.

an expedition, the principal element of which would be 15,000 cavalry, land at Nuevitas, on the north coast of Cuba, advance fifty miles inland along a railroad to Puerto Principe, then march westward 345 miles (where no railroad then existed) on Havana. Secretary Alger expresses the opinion that, "this plan was so evidently impossible and impracticable as to need little argument to so prove it."¹¹⁸ He goes on to say that there was insufficient shipping available to transport 15,000 horses; that the channel leading to Nuevitas was such that no vessel drawing more than fifteen feet could come within fifteen miles of the town; that the railroad to Puerto Principe had little rolling stock and there was no road paralleling it; and that, if and when the expedition should reach Puerto Principe, it would still have a march of 345 miles through a sparsely settled tropical country in the rainy season, to get to a place which we could reach in a day by sea under protection of our battleships.¹¹⁹ Secretary Alger fills several pages more with adverse criticism of other recommendations, strategical and logistical, made by General Miles.¹²⁰

117. It is unnecessary in this paper to consider whether the Secretary or the general was right as to these matters. It is sufficient to point out that:

a. Even after war had been declared, there was no carefully thought out strategical plan. The reason has already been stated, that there was no agency, whose duty it was to make such a plan, unless it were the general in chief, and he had no staff sufficient to help him do it.

b. Friction and lack of mutual confidence and esteem arose between the Secretary and the general.

118. The Dodge report takes up in turn each of the staff departments of the Army, and tells how well it functioned during the Spanish War. Some of them had done a little planning; for example, the Medical Department had designed and approved models of medical chests for use in the field,¹²¹ but nothing could be or was done in advance of the declaration of war toward increasing stocks of supplies, for lack of funds. The Commission reported:

"The commission has refrained from criticizing certain of the heads of bureaus for not having acted with foresight in preparing their various departments for active war before war was actually declared because it has appeared that the national defense fund provided by the

118. Alger, book cited, p. 55.

119. Alger, book cited, pp. 55-57.

120. Alger, book cited, pp. 57-61.

121. Report of the Commission on the Conduct of the W.D. in the War with Spain, Vol. I, p. 169.

act of March 9, 1898, was not made available for use, except for the Navy and for coast defenses and the expenditures incident thereto, until after the declaration of war."122

119. The foregoing seems to have been due to a narrow construction by the President of the words, "national defense," which the act of Congress gave as the object of the \$50,000,000 appropriation already mentioned.123 The lack of planning is also shown by the shipment to Tampa of far more men and supplies than could be handled there, and by the failure to ascertain the capacity of transports, and to make timely and proper assignments of troops to them and to notify the troops of their assignments.

120. So much for planning. The situation as to the transaction of routine business of the War Department is thus stated in the report of the Commission:

"The routine work in the departments, in our opinion, is far beyond what is necessary, and each year seems to increase it. The methods employed makes it almost impossible to transact business promptly. The heads of all departments, officers of large depots, chiefs of staff departments, corps, and divisions have necessarily been obliged to give the time and attention to details which should have been given to matters of larger moment. No well-regulated concern or corporation could transact business satisfactorily under such regulations as govern the staff departments, and the fact that every officer of each of the staff departments holding responsible positions has been obliged to ignore routine demonstrates the necessity of a thorough reform."124

122. Report of the Commission, Vol. I, p. 116. See also the testimony of Col. J. Morris Brown, in charge of the Medical Supply Depot, New York, same, pp. 2317, 2318, that on March 28, 1898, he opened proposals for medical supplies for an Army of 25,000 for six months; and that, even when war was declared in the latter part of April, he received no orders to buy supplies for an Army of 100,000 men. See also Alger, work cited, p. 9.

123. Sec. Alger says, in his book already cited, p. 8, "No part of this sum was available for offensive purposes - even for offensive preparation. The fund, though placed at the President's disposal, remained only an appropriation 'for national defense', and he confined the employment of it literally within that limitation." The present writer has searched the published opinions of the Attorney General and the Comptroller of the Treasury and has found none so construing the act. Apparently the construction was one made by the President himself, on grounds of policy rather than of law.

124. Report of the Commission, Vol. I, p. 113.

121. To the difficulties and delays caused by unsound business methods were added others due to the onset of war, thus vividly described by Major General William H. Carter, then a lieutenant-colonel in the Adjutant General's Office:

"From the moment that it became apparent that a volunteer Army was to be raised, and that there was to be an increase in the Regular Army, the offices of the Secretary of War and The Adjutant General and Assistant Adjutants General, and the corridors of the War Departments were uncomfortably crowded with applicants for appointments or with Members of Congress presenting the claims of constituents for appointment to office. The Secretary of War and the Adjutant General could only attend to the proper functions of their offices in guiding organization, equipment, and mobilization of the great volunteer Army, then being put in the field, by secreting themselves for a few moments at a time, or during the night, when most of the real business of the department had to be conducted, to avoid the pressure from office seekers.

"Among the crowds which filled the rooms and corridors was a host of newspaper reporters who listened to almost all the business which was carried on between the Adjutant General and his assistants. It was next to impossible to keep anything from the press under those conditions. Almost all the orders given appeared in the newspapers about the time or before they were received by those for whom they were intended."¹²⁵

122. If there had been anything in the nature of a general staff or a comptroller to supervise the organization and methods of the department and the army, it may be presumed that the unfortunate results described by the Commission and General Carter would not have occurred.

123. The Commission makes the following restrained but none the less damning criticism of the operation of the War Department during the war with Spain:

"In the judgment of the Commission there was lacking in the general administration of the War Department during the continuance of the war with Spain that complete grasp of the situation which was essential to the highest efficiency and discipline of the Army."¹²⁶

124. It is difficult to see how the result could have been other than what it was, as there was nobody except the Secretary of War whose duty it was to have a "complete grasp of the situation", strategically and logistically. It is painful to think what might have happened if our enemy had been a country anywhere near our military equal.

125. Creation of the American General Staff, Senate Doc. 119, 68th Congress, 1st Session, p. 17

126. Report of the Commission, Vol. I, p. 116.

125. General Miles, following the example of Winfield Scott and Grant, left the Headquarters of the Army in Washington and took the field. In fairness to him it must be said that the expedition to Puerto Rico, which he commanded in person, was much better managed than that against Santiago de Cuba. In each of the three wars which occurred while the position of general of the army existed, the Mexican, the Civil, and the Spanish War, the general left his post at Washington and took command of one or more of the armies in the field. Grant left Halleck in Washington as Chief of Staff, but Scott and Miles left nobody there to act for them. If there was a real need for a general of the army in Washington, it would seem that the need would have been greater in war than in peace, because a general in command of an army in the field obviously cannot efficiently exercise command of other armies or of the zone of the interior. The dilemma is inescapable:— either a general of the army, i.e., an officer commanding the entire army, is not needed; or, if needed, his headquarters should be at Washington.

126. In order that he may command efficiently, and that victory may crown his efforts, the commander or chief officer of the army, whether he be the President, the Secretary of War, the General of the Army, or the Chief of Staff, ought to know what is going on in the Army, both in the zone of the interior and in the theater of operations. Pursuant to law, regulations, and orders then in force, the duty of so informing him was to be performed by the Inspector General. Yet in the Spanish War, the Inspector General, the next officer in rank in his office, and other inspectors also left their station at the capital and took command in the field.¹²⁷ It would seem that, if that were to be done, some other competent officer ought to have been detailed as acting Inspector General.

127. The distinguished members of the commission reached the same conclusion as is expressed elsewhere in this paper, that the existence of the two positions of Secretary of War and General of the Army necessarily caused discord and adversely affected efficiency. In its report, under the heading of "Authority and Responsibility", the commission said:

"For many years the divided authority and responsibility in the War Department has produced friction, for which, in the interest of the service, a remedy, if possible, should be applied. The Constitution makes the President the Commander in Chief of the Army, and he can not transfer that authority to any other person. The President selects his Secretary of War, who has his confidence, and who is his confidential adviser. The commanding general is assigned to duty as such by the President, . . ."¹²⁸

127. Report of the Commission, Vol. V. pp. 1759, 1772, 1773.

128. Report of the Commission, Vol. I, p. 115.

128. Next follow extracts from the Army Regulations and the quotation from General Schofield already made herein, 129 in which that officer said that the proper position of the senior officer of the Army in Washington is not commanding general, but chief of staff to the President and Secretary of War. The report then continues:

"The President must have the same power of selection of his general in chief as he has of his Secretary of War; without this there can be no guaranty that he will give, or that the Secretary of War will place in the general in chief, that confidence which is necessary to perfect harmony. Neither the President nor the Secretary of War should have in the command of the Army an officer who is not working in harmony with him." 130

129. An incident which attracted much attention during Miles' tour as general of the army was the quarrel between him and Brigadier General Charles P. Egan, Commissary-General of Subsistence. 131 In his testimony before the commission, General Miles stated that the Subsistence Department had issued to troops "embalmed beef", into which chemicals had been injected as a preservative against decay, and unpalatable tinned fresh beef, supplied "as a pretense of experiment." 132 In making these charges, General Miles was misled by the mistaken report to him of a medical officer on his staff and was in error. When General Egan came before the commission as a witness, he read to it a prepared statement calling General Miles a liar in language whose insubordination is equaled only by its coarseness. 133 The Commission rejected the charges of General Miles as to the embalmed beef and as to the issue of tinned beef as an experiment. 134 General Egan was tried and justly convicted of violation of the 95th and 96th Articles of War in using such language, and was sentenced to be dismissed. 135 Because of his prior excellent record, President McKinley commuted the sentence to suspension from rank and duty for six years. Two years later he remitted the unexpired portion of the sentence. 136

129. Par. 106.

130. Report of the Commission, Vol. I, p. 116.

131. During the Spanish War the author of this paper was a boy sixteen years old residing in Washington, and he well remembers the publicity given in the newspapers to General Miles' charges and to General Egan's tirade, and the sensation which they caused.

132. Report of the Commission, Vol. VII, pp. 3256, 3257.

133. General Egan's vile language is much toned down in the printed report of the testimony taken before the commission (Vol. VII, p. 3578), but is given in full and accurately in G.O. 24, Hdqrs. of the Army, Feb. 7, 1899, announcing result of his trial.

134. Report of the Commission, Vol. I, pp. 163, 166.

135. G.O. last cited.

136. G.O. 137, Hq. of the Army, Dec. 6, 1900.

130. This incident might be dismissed as beyond the scope of this paper except for one circumstance. General Eagan began the long statement which contained his attack on General Miles by saying that the latter had no authority to give him, the Commissary General, a reprimand.¹³⁷ Later he complained that Major A. L. Smith, who had been sent to Puerto Rico as depot commissary, was not under General Miles' orders except in emergencies; but that Miles took him away from his depot and put him on a transport.¹³⁸ Further on he said, "I should have taken the cablegram of General Miles to our common superior, the Secretary of War."¹³⁹ The foregoing passages show plainly that the Commissary General did not regard the general of the army as his superior.

131. On the other hand, General Miles does not seem to have considered the Secretary of War to be his superior. The Secretary of War gave the general of the army a formal written order to inspect the camps at three places and report on them. General Miles brought the order back, and threw it on the Secretary's desk, saying that he was in the habit of issuing such orders himself.¹⁴⁰ As the opinions and judicial decisions already cited¹⁴¹ prove, Secretary Alger had the law on his side; but, instead of having a showdown and either having his order obeyed or relieving Miles, he meekly answered, "Then you are not under my command." Miles went to Tampa, one of the places mentioned, and observed the embarkation of General Shafter's expeditionary corps there; but the Secretary did not know whether he inspected the camp there. He did not go to the other two places and made no report.¹⁴²

131a. The opinion of Attorney-General Cushing,¹⁴³ announced forty years earlier, should have settled for all time that everybody in the Army, including the General of the Army, is subject to the orders of the Secretary of War. The misleading paragraphs in the Army Regulations hitherto quoted,¹⁴⁴ lending

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137. Report of the Commission, Vol. VII, p. 3564.
138. Report of the Commission, Vol. VII, p. 3565.
139. Report of the Commission, Vol. VII, p. 3574.
140. Statement by Senator (formerly Secretary) Alger at a hearing before the Committee on Military Affairs of the Senate, Dec. 17, 1902, printed in Hearings before the Committee on Military Affairs, H.R. 69th Cong., 2d Sess., Historical Docs. relating to the Reorganization of the W.D., p. 158; Testimony of Mr. Alger, Secretary of War, before the Dodge Committee, Report previously cited, Vol. VII, p. 3767.
141. Pars. 12-16 of this paper.
142. Testimony of Mr. Alger, Secretary of War, before the Dodge Committee, Report previously cited, Vol. VII, p. 3768.
143. Discussed and quoted in par. 12 of this paper.
144. In pars. 38 and 46 of this paper.

color to the idea of a vertical division between the general of the army and the line of the Army on the one hand, and the Secretary and the staff on the other, were no doubt in large part responsible for the erroneous view taken by both Miles and Eagan as to who were their superiors.

132. After Elihu Root had been Secretary of War for a couple of years, he and McKinley and Theodore Roosevelt, successively President, became convinced that Miles was trying "to promote his own views and undo my plans."¹⁴⁵ Miles had the presidential bee in his bonnet. President Roosevelt said of him:-

"During the six months that I have been President, General Miles has made it abundantly evident by his actions that he has not the slightest desire to improve or benefit the army, and to my mind his actions can bear only the construction that his desire is purely to gratify his selfish ambition, his vanity, or his spite. His conduct is certainly entirely incompatible, not merely with intelligent devotion to the interests of the service, but even with unintelligent devotion to the interests of the service. President McKinley and you yourself have repeatedly told me that such was the case during the period before I became President."¹⁴⁶

133. Miles gave an interview to the press in which he commented on a matter involving the Navy Department, and Secretary Root publicly reprimanded him for doing so.¹⁴⁷ There were other subjects of controversy between them. Whether Root or Miles was right in these squabbles is immaterial to the present inquiry. The result of them was that friction and disputes arose between them, as between so many other Secretaries of War and Generals of the Army. Finally General Miles was not on speaking terms with Secretary of War Alger or President Theodore Roosevelt.¹⁴⁸ It is also said that during the last part of General Miles' service as general in chief, he and the Adjutant General of the Army, Major General Henry C. Corbin, were not on speaking terms. It is supposed that the feeling between them arose over differences of view as to the boundary between their functions, which indicates the unfortunate consequences of the absence of clear definitions in such matters. The existence of such relations cannot have failed to influence adversely the efficiency of the War Department and the Army.

145. Root's language, quoted in Philip C. Jessup, *Elihu Root*, Vol. I, p. 244.

146. Jessup, work cited, Vol. I, p. 245.

147. Jessup, work cited, Vol. I, p. 247.

148. Statement of Lt. Gen. John M. Schofield before the Committee on Military Affairs of the Senate, Apr. 9, 1902, and of Senator (previously Secretary of War) Alger before the same Committee Dec. 17, 1902, printed in *Hearings before the Committee on Military Affairs, H.R. 69th Cong., 2d Sess., Part I*, pp. 87, 158.

Samuel B.M. Young 1903

134. As has been said, the last general of the army was Lieutenant General Samuel B.M. Young, who held the position only one week (August 8-15, 1903). In view of the brevity of his service in that capacity, it is unnecessary to say anything about it.

C. CONCLUSIONS

There was Constant Friction between the Secretary of War and the General of the Army. The General of the Army did not in Fact and could not Constitutionally Command the Army

135. General Schofield began his article already cited with this statement:

"During nearly the entire history of the government of the United States the relations between the general-in-chief, or nominal commanding general of the army, and the War Department have been the cause of discord, sometimes descending to bitter personal controversy, and in a few instances leading to very serious results."¹

136. In time of peace there were two principal subjects of dispute: first, whether and to what extent the General of the Army was subject to the orders of the Secretary of War, and where was the line to be drawn separating the functions of their offices; and, second, whether and to what extent the staff departments were subject to the orders of the General of the Army. In war time, if he did not himself take the field, a third was added: How far might the General of the Army go in controlling the generals in the field?

137. Ten men successively held the position of general of the army, as follows:

Rank	Name	Served as General of the Army
Maj. Gen.	Alexander Macomb	1828-1841
Maj. Gen, Bvt. Lt. Gen.	Winfield Scott	1841-1861
Maj. Gen.	George B. McClellan	1861-1862
Maj. Gen.	Henry W. Halleck	1862-1864
Lt. Gen., Gen.	Ulysses S. Grant	1864-1869
Lt. Gen., Gen.	William T. Sherman	1869-1883
Lt. Gen., Gen.	Philip H. Sheridan	1883-1888
Maj. Gen., Lt. Gen.	John M. Schofield	1888-1895
Maj. Gen., Lt. Gen.	Nelson A. Miles	1895-1903
Lt. Gen.	Samuel B. M. Young	Aug. 8-15, 1903

138. Young was general of the army for a week only, too short a period for any difficulties to develop or be recorded; but all the rest had more or less friction and trouble with the President, the Secretary of War, staff officers in the Department or commanders in the field. All of these were patriotic, able, and experienced soldiers; some of them among the greatest soldiers of our history. Why did they have so much difficulty? Among the reasons for their trouble are the following:

1. Century Magazine, Vol. 54, p. 577; same author, book previously cited, p. 406.

a. Scott's insubordination, vanity, and irascibility. Macomb's difficulties as General of the Army were due solely to Scott's insubordination to him. Otherwise, there is no record of any friction. Scott's difficulties as General of the Army were due in part, but only in part, to his own vanity, irascibility, and insubordination to the President and Secretary of War.

b. McClellan's insubordination, disrespect, and overestimate of the enemy. During the last months of Scott's service as General of the Army, his difficulties were due to McClellan's insubordination to him. McClellan's troubles as General of the Army were caused by his own disrespect and insubordination toward the President and Secretary of War, and by his constant overestimate of the strength of the enemy, which led the President and the Secretary of War to interfere in strategy and tactics in the effort to get McClellan to be more aggressive.

c. Failure to recognize that the orders of the Secretary of War must be obeyed by the General of the Army. Especially during the first part of the period under consideration, and to some extent later, it was not recognized, even by Scott, who was a lawyer as well as a soldier, that the orders of the Secretary of War are in law those of the President, and must be obeyed by the General of the Army as well as by everybody else in the army.

d. Lack of proper definition of the powers and duties of the General of the Army. During a great part of the period under consideration, there was no definition by law, regulation, or order of the powers, duties, and responsibilities of the General of the Army. During other parts of it, there was in orders or regulations a partial and faulty definition of those powers, duties, and responsibilities. Until the publication of the Army Regulations of 1847 there was no definition whatever of the duties or powers of the General of the Army. The definition therein² was fuller and better than any later promulgated, but was omitted from the Regulations of 1857. From that time until 1869 there was no definition except the partial and unconstitutional one contained in the act of March 2, 1867,³ repealed in 1870. From 1869 until the end of the period there were partial and faulty definitions in orders or Army Regulations, which have been previously described herein.⁴ Their greatest defect was that they permitted, if they did not justify, the division between the Secretary and the Staff departments on the one side, and the General of the Army and the line on the other. From this notion two ideas arose:- First, the general got the erroneous idea that he was not subject to the orders of the Secretary. Attorney

2. Quoted in par. 38 of this paper.

3. Quoted in par. 40 of this paper.

4. Pars. 46 and 47 of this paper.

General Cushing's opinion,⁵ the decision in the Eliason case,⁶ and the other authorities already cited herein⁷ show that this idea was wholly unsound as a matter of law. The second idea to which the vertical division above mentioned led was that held by the chiefs of the Staff departments, that they were not subject to the General of the Army.⁸ It would have been legally permissible for the Secretary to disabuse the minds of the chiefs of the Staff departments of this idea by directing the contrary in a general order or regulation. It will be remembered that General Schofield, when Secretary of War, did so; but that his order was revoked by his successor, Secretary Rawlins, nineteen days later,⁹ which revocation of course served to implant the idea even more firmly in the minds of the staff.

e. Lack of an adequate staff for the General of the Army. The General of the Army had no staff adequate to the performance of his duties. Except for nineteen days in March 1869, his staff consisted of his personal aides only.

139. The five reasons above mentioned are not sufficient to explain the almost constant friction between the General of the Army and his superiors or subordinates or both. What else was the cause of it? A clue may be found by considering the case of General Halleck, who was in Washington during the Civil War for three years, from 1862 to 1865, the first two as General of the Army, and the third as Chief of Staff. Though not a good field general, Halleck, like Scott and Pershing, was a lawyer as well as a soldier, and a man of great ability and erudition.¹⁰ He said¹¹ that as General of the Army he was merely military adviser to the President and the Secretary of War, that he never hesitated to differ with them in opinion, but obeyed and cordially carried out their decisions. That is a description of the duties of a chief of staff, not those of a commanding general. General Fry says that, after Halleck's relief as general of the army and detail as chief of staff, he continued to perform the same duties as before.¹² General Fry also says, with entire correctness:

5. 7 Ops Atty. Gen. 453 (1855), already quoted and discussed in this paper in pars. 7 and 12.

6. 16 Peters 291, 302, quoted and discussed in par. 14 of this paper.

7. In pars. 11, 13, 15 and in footnote to par. 16.

8. See Chart II.

9. See pars. 44, 45, and 94 of this paper.

10. See par. 70 of this paper.

11. See pars. 73 and 74 of this paper.

12. Military Miscellanies, pp. 71, 72.

"Saying that a chosen General commands the whole Army under the Secretary of War is admitting - what is the fact - that he does not command it. The late Major General Halleck, who was an educated soldier, an accomplished scholar, and a profound lawyer, fully comprehended this."¹³

140. The General of the Army who had the least friction with his superiors was Schofield. Why did he get along so much better than the others? The question is answered in a passage already quoted herein,¹⁴ in which Schofield says that, when general of the Army he acted upon the view that, under our constitution, "the general-in-chief, or nominal commanding general, can at most be only a 'chief of staff', that or nothing, whatever may be the mere title under which he may be assigned to duty by the President."

141. Let us turn for a moment from the writings of eminent soldiers of the past, and consider the reason of the thing. We have in the army many examples of two persons, one above the other, but both having authority over the same unit. Among these may be mentioned the Commanding General and the Chief of Staff of a division, and the colonel and lieutenant-colonel of a regiment. In no such case is the lower in rank of the pair called the commanding officer; nor would he be such, even if he were so called. He is commonly called Chief of Staff or executive officer. He can only make decisions or give orders insofar as the higher in rank of the pair authorizes him to do so. The situation was the same with respect to the President, the Secretary of War, and the General of the Army. The last named, so long as he had the first two over him, could not in truth and in fact command the army. The circumstances that he was called general of the army, that he had been ordered by the President to command the army, and that he was senior in rank to everybody else in the army naturally led him to believe that he commanded it, that he had the same authority over it as he had had over the division or regiment which he had formerly commanded. General Schofield, after having been successively Secretary of War and General of the Army, said, "he" (the General of the Army) "has not control of a single soldier or a single officer; not one."¹⁵ His authority over the army was in fact only that of the Chief of Staff of a division or the lieutenant colonel of a regiment.

142. The mistaken notion naturally arising from the title of the position, that the General of the Army commanded it, was the greatest single cause of friction between the Secretary and the general. That this is so is shown by the statements of the men best qualified to speak on the subject. General Schofield, whose experience as Secretary of War and General of the Army has just been mentioned, called the title of General of the Army "a lie right on the face

13. Military Miscellanies, p. 93.

14. Par. 106. See also statement of Gen. Schofield at a hearing before the Committee on Military Affairs of the Senate, April 9, 1902, reprinted in Hearings before the Committee on Mil. Affairs, H.R. 69th Cong. 2d Sess., Part I, pp. 89, 90.

15. Hearings cited in preceding note, p. 90.

of it,"¹⁶ and said that the question is "not let him sail under false colors; not to let this falsehood continue."¹⁷ Secretary Root, one of the ablest lawyers and Secretaries of War whom the nation has ever had, said, "The friction comes from the fact that the title of General commanding the Army, which is conferred upon the senior major general or the lieutenant general, carried with it an implication of the right of independent command."¹⁸ Major General, afterward Lieutenant General, Samuel B. M. Young, wrote:

"It has long been a matter of conviction among all the older officers that the position of Commanding General of the Army, without any actual command, was a misnomer which did lead and must in the future lead to continual friction and loss of efficiency."¹⁹

142a. A parallel may be found in the Navy. The act of April 30, 1798, establishing the Navy Department, still in force, says that the Secretary of the Navy "shall be the head thereof".²⁰ It goes on to impose duties upon the Secretary as follows:

"The Secretary of the Navy shall execute such orders as he shall receive from the President relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as all other matters connected with the naval establishment."²¹

142b. The statute defining the duties of the Chief of Naval Operations says:

"It shall be his duty to command the operating forces and be responsible to the Secretary of the Navy for their use, including, but not limited to, their training, readiness, and preparation for war, and plans therefor."²²

142c. In the same act, "operating forces" are defined as meaning the fleets, sea-going forces, and large parts of the naval shore forces.²³

16. Same, p. 95.

17. Same, p. 90.

18. Same, p. 133.

19. In a letter to the Secretary of War, dated Dec. 12, 1902, quoted by Maj. Gen. Carter in Creation of the American General Staff, Sen. Doc. 119, 68th Cong, 1st Sess., p. 42.

20. 1 Stat. 553; Revised Statutes, sec. 415; 5 U.S. Code 411.

21. 1 Stat. 553; Revised Statutes, sec. 417; 5 U.S. Code 412.

22. Sec. 2(b), act of March 5, 1948; 62 Stat. 67; 5 U.S. Code 423b (b).

23. Sec. 1(), act of March 5, 1948; 62 Stat. 66; 5 U.S. Code 423a (b).

142d. It will be observed that the act of 1798,²⁴ with respect to the duties of the Secretary of the Navy, specifically mentions only logistical matters, and is silent about his command duties as the President's delegate. On the other hand, section 2(b) of the act of March 5, 1948,²⁵ expressly confers command of most of the Navy upon the Chief of Naval Operations; notwithstanding the fact that, consistently with the President's constitutional powers as commander in chief of the Navy, he can at most be the chief naval adviser to the President, the Secretary of Defense, and the Secretary of the Navy, and their executive officer for the command of the Navy. The situation created by the enactment of these two statutes closely resembles that which existed in the Army for many years; when a faulty regulation²⁶ unduly emphasized administrative, fiscal, and logistical duties of the Secretary of War, and ignored his command function as the President's delegate; and when the same regulation, the title of his position, and an order to take command of the army led the General of the Army to suppose that he commanded it, although in fact and in law he was and could be only the adviser to and executive of the President and Secretary for its command.

142e. It would be beyond the scope of this paper to go into the recent differences of opinion between the Secretary of the Navy and certain officers of high rank in that service, nor has this writer studied them sufficiently to express a definite opinion with respect to them. Nevertheless, like causes produce like results; and this writer can not help wondering whether the differences to which allusion has been made might have been avoided, or at least been less acute, if the pertinent statutes had placed less emphasis upon the logistical duties of the Secretary of the Navy and more upon his command function as the delegate of the President, and had not undertaken to confer command upon the Chief of Naval Operations.

143. On the other hand, the Presidents and Secretaries of War were not free from misapprehension and fault. Most of them had had little or no military experience, yet in time of war they often intervened in strategic and tactical matters. Neither in peace nor in war did they always realize the existence or the wisdom of the army policy, that the commanding officer of a large unit had best leave matters of detail to his chief of staff or executive; and, if he chooses to intervene in them, his orders should go through his executive, who in their case was the General of the Army.

144. Let us therefore formulate the following further causes of the frequent difficulties of the Generals of the Army:

24. Quoted in par. 142a of this paper.

25. Quoted in par. 142b of this paper.

26. Quoted in pars. 38 and 46 of this paper. See also par. 138d.

f. Notwithstanding the title of his position, the General of the Army did not in fact command the Army. The General of the Army, though called by that title and assigned to command the army, did not in fact command it; and, under our system of government, could not do so. His duties are more accurately described as military adviser and Chief of Staff to the President and Secretary of War. His title led the general himself and others to suppose him entitled to command. His erroneous and misleading title was a cause of friction.

g. Interference by Presidents and Secretaries of War in strategical and tactical matters. The Presidents and Secretaries of War interfered in time of war in strategical and tactical matters, as to which they had little or no training or experience.

h. Interference by Presidents and Secretaries of War in details of administration. The Presidents and Secretaries of War interfered from time to time in details of military administration, which, as a matter of policy, should have been left to the General of the Army.

145. Of the several reasons for the difficulties encountered, the most important is "f", the fact that the general of the army, though called by that title and assigned to command the army, did not in fact and could not command it, but was at most a chief of staff to the President and the Secretary of War, and should have been so called.

145a. On page 137 of this paper is Chart I showing the organization of the army from 1828 to 1903 according to law, as interpreted by Attorney General Cusing's opinion.²⁷ On page 138 is Chart II showing the organization for the same period according to the views of the chiefs of the staff departments, par. 48 of the Army Regulations of 1847, par. 125 of those of 1881, and later regulations. Immediately after Chart II is Chart III, showing the organization of the War Department and the Army for the same period, as they in fact operated.

27. 7 Ops. Atty. Gen. 453 (1855), quoted in pars. 7 and 12 of this paper.

II. THE PRESIDENT, THE SECRETARY OF WAR
AND THE CHIEF OF STAFF, 1903 - 1947

A. LEGAL HISTORY

Creation of the Office of Chief of Staff

146. As has already been stated in this paper,¹ as far back as the Civil War, the astute Halleck realized that, in his position as General of the Army, he did not in fact command the Armies of the United States, but was merely a military adviser to the President and the Secretary of War. The giving of military advice to his superior is the duty, not of a commanding general, but of a Chief of Staff. Some years later, Schofield, the only man since the early days of the republic who has served both as Secretary of War and general of the army, concluded that the General of the Army can at most be a chief of Staff.² In consequence of his holding this view of the nature of the position of General of the Army, he had far less friction with the Secretary than any other occupant of it.

147. On August 1, 1899, Elihu Root succeeded Alger as Secretary of War. Root was a New York lawyer, who was without military experience, except as a private of militia for a few months in his youth, and whose governmental experience was limited to a few years' service as United States Attorney at New York; but he had the ablest mind of any man in public life of his time. Major General Hugh L. Scott, Chief of Staff from 1914 to 1917, who went with Mr. Root on a mission to Russia in the latter year, wrote as follows:

"I parted with Mr. Root in New York feeling that I had had the rare privilege of close association with the most far-seeing and sagacious man I had ever met; and I hereby classify him - in my mind - as the foremost citizen of the Republic."³

148. Root early reached the conclusion that some reform was necessary in the organization of the War Department. It was fortunate for the army that he came into contact with Lt. Col. (afterwards Major General) William H. Carter, then serving in the Adjutant General's Office, also a man of keen mind, ready pen, and great persistence. Pursuant to Carter's advice, Root became convinced that the remedy for the trouble in the War Department was the creation of a General Staff and a Chief of Staff. These two men, more than any others, are responsible for their existence.

1. Pars. 73 and 74.

2. Par. 106 of this paper.

3. Hugh L. Scott, Some Memories of a Soldier, pp. 590-593. The present writer, who had the pleasure of meeting Mr. Root on a few occasions and hearing him speak on several, concurs in General Scott's opinion.

149. A General Staff and a Chief of Staff with the powers necessary to their proper functioning could be set up only by act of Congress. To get such a bill through Congress would require time, in which to educate public opinion on the subject. In the meanwhile, the Secretary created the Army War College,⁴ whose duties, in addition to instruction, were to include the following:

"First. To consider and report upon all questions affecting the welfare and efficiency of the Army, including organization, methods of administration, armament, equipment, transportation, supplies, mobilization, concentration, distribution, military preparation, plans of campaign, and other professional matters as may be referred to it."

* * * * *

"Fourth. To devise means for the harmonious and effective cooperation of all the military forces of the United States, including the organization of an instructed reserve, with personnel and stations indicated in advance, in readiness for mobilization when required.

"Fifth. To devise means for full cooperation of the military and naval forces in time of war"⁵

150. Finally, a bill was introduced into Congress February 14, 1902, creating a General Staff and a Chief of it. General Miles opposed it on the ground that the historic position of General of the Army ought not to be abolished.⁶ On the other hand, General Schofield supported the bill.⁷

151. In view of recent circulars conferring command upon the Chief of Staff and recommendations that the same now be done by statute, it is interesting to note certain discussion and correspondence which occurred while the bill for the creation of the General Staff was pending. At a hearing before the Committee on Military Affairs of the Senate on December 17, 1902, Senator Foraker, who was a veteran of the Civil War, read aloud the provision later enacted giving the Chief of Staff Supervision of the troops of the line and the staff departments,⁸ and the following colloquy occurred:-

4. G.O. 155, Hq of the Army, Nov 27, 1901.

5. Creation of the American General Staff, by Maj. Gen. William H. Carter, Sen. Doc. 119, 68th Cong., 1st Sess. p. 3.

6. Same, p. 31.

7. Same, p. 36.

8. Sec. 4 of act of Feb. 14. 1903. 32 Stat. 831. now 10 U S Code 33a

"Senator Foraker. Should not the word be 'command' or 'control,' or something of that kind instead of 'supervision'?"

"Secretary Root. I think not, Senator.

"Senator Foraker. That brings up the very identical point. He is to be chief of staff. He is to be the right-hand man of the President. The President issues all his orders through him. Should not the chief of staff be something more than a mere supervisor?"

"Secretary Root. He is the supervisor and he is the mouthpiece, and if you put the word 'command' in there you have departed from the entire theory of the staff, as I understand it.

"Senator Foraker. How have you done so, when he exercises it under the direction of the President?"

"Secretary Root. The chief of staff exercises no command of his own. When you by statute give him 'command' you are giving him something that is independent, by virtue of his own authority."⁹

152. Later at the same hearing, Secretary Root said that he considered three or four different words before deciding on "supervision" and went on to say,

"Finally, after a great deal of consideration I adopted this form of expression as being the only one that would not make the trouble of interfering with the President's constitutional prerogative on the one hand and laying the foundation possibly of creating the very difficulty that we are trying to get rid of on the other."¹⁰

153. What Mr. Root meant is shown by the remark of Senator Scott at the same hearing:

"In putting that man in as Chief of Staff, with the word 'command' there, the same trouble is liable to come up that now comes up between the lieutenant general and the Secretary of War and the President. He might insist that he was commander again."¹¹

9. Reprinted in Hearings before the Committee on Mil. Affairs, H.R. 69th Cong., 2d Sess., Part I, p. 145.

10. Reprinted in Hearings before the Committee on Mil. Affairs, H.R. 69th Cong., 2d Sess., Part I, p. 150.

11. Same.

154. General Carter, the originator of the General Staff so far as the United States is concerned, in a memorandum dated December 27, 1902, argued against the substitution of "command" for "supervision" in the bill, and said:

"Having reference to Senator Foraker's comments on the word 'supervision' in the General Staff bill and the suggestion that this word be changed to 'command' or 'control', it is well to consider the effect of this change before making it. The word 'supervision' was adopted because in the military sense it indicates the overseeing of affairs in the interest of superior authority. The word 'command' implies directly the power of the officer holding such command to issue orders."¹²

155. The word "supervision" remains in the bill as passed.

Statutes, Regulations, and Orders with respect to Duties of the General Staff and the Chief of Staff

156. There will be set out in this section all acts of Congress, regulations, and orders with respect to the powers and duties of the Chief of Staff and the General Staff. The bill creating them, drawn by Lt. Col. Carter as previously stated, with some amendments by Congress, was approved by the President February 14, 1903;¹³ and, by its own terms, took effect August 15, 1903. It provided:

"That there is hereby established a General Staff Corps, to be composed of officers detailed from the Army at large, under such rules as may be prescribed by the President.

"Sec. 2. That the duties of the General Staff Corps shall be to prepare plans for the national defense and for the mobilization of the military forces in time of war; to investigate and report upon all questions affecting the efficiency of the Army and its state of preparation for military operations; to render professional aid and assistance to the Secretary of War and to general officers and other superior commanders, and to act as their agents in informing and coordinating the action of all the different officers who are subject under the terms of this act to the supervision of the Chief of Staff; and to perform such other military duties not otherwise assigned by law as may be from time to time prescribed by the President.

"Sec. 3. That the General Staff Corps shall consist of one Chief of Staff and . . ."

12. Creation of the American Gen. Staff, by Maj. Gen. William H. Carter, S. Doc. 119, 68th Cong., 1st Sess., p. 44.

13. 32 Stat. 830.

* * * * *

"Sec. 4. That the Chief of Staff, under the direction of the President or of the Secretary of War, under the direction of the President, shall have supervision of all troops of the line and of The Adjutant-General's, Inspector-General's, Judge-Advocate's, Quartermaster's, Subsistence, Medical, Pay, and Ordnance departments, the Corps of Engineers, and the Signal Corps, and shall perform such other military duties not otherwise assigned by law as may be assigned to him by the President."

157. The next most important task for the creators of the General Staff was the drafting of regulations for it. On that subject, General Carter has this to say:

"The War College board prepared the necessary regulations for incorporating the new organization in the Army, and prescribing its duties. These regulations received the careful attention of the Secretary of War, and he wrote out the part relating to the action of the Chief of Staff and prescribing how command in the Army should be exercised. I retained the proof copy of the new regulations, showing the Secretary's writing and interlineations, and it appears with other papers constituting an appendix to this narrative, which I have filed in the office of the Chief of Staff."¹⁴

158. Accordingly, on August 14, 1903, the day before the statute creating the General Staff was to take effect, there was issued a general order¹⁵ publishing "additional Regulations for the Army, numbered from 1 to 20, inclusive," with respect to the General Staff Corps. Those paragraphs relating to the duties of the War Department General Staff and of the Chief of Staff are quoted below:

RELATIONS

"2. The law establishes the General Staff Corps as a separate and distinct staff organization, with supervision, under superior authority, over all branches of the military service, line and staff, except such as are exempted therefrom by law or regulations, with a view to their coordination and harmonious cooperation in the execution of authorized military policies.

14. Maj. Gen. William H. Carter, Creation of the American Gen. Staff, Sen. Doc. 119, 68th Cong., 1st Sess., pp. 54, 55.

15. G.O. 120, Hq. of the Army, Aug. 14, 1903.

DUTIES

"3. The General Staff Corps, under the direction of the Chief of Staff, is charged with the duty of investigating and reporting upon all questions affecting the efficiency of the Army and its state of preparation for military operations, and to this end considers and reports upon all questions relating to organization, distribution, equipment, armament, and training of the military forces (Regulars, Volunteers, and Militia), proposed legislative enactments and general and special regulations affecting the Army, transportation, communications, quarters, and supplies; prepares projects for maneuvers; revises estimates for appropriations for the support of the Army and advises as to disbursement of such appropriations; exercises supervision over inspections, militia education and instruction, examinations for the appointment and promotion of officers, efficiency records, details and assignments, and all orders and instructions originating in the course of administration in any branch of the service which have relation to the efficiency of the military forces; prepares important orders and correspondence embodying the orders and instructions of the President and Secretary of War to the Army; reviews the reports of examining and retiring boards; and acts upon such other matters as the Secretary of War may determine.

"4. The General Staff Corps, under like direction, is further charged with the duty of preparing plans for the national defense and for the mobilization of the military forces (including the assignment to armies, corps, divisions, and other headquarters of the necessary quota of general staff and other staff officers), and incident thereto with the study of possible theaters of war and of strategic questions in general; with the collection of military information of foreign countries and of our own; the preparation of plans of campaign, of reports of campaigns, battles, engagements and expeditions, and of technical histories of military operations of the United States.

"5. To officers of the General Staff Corps are committed the further duties of rendering professional aid and assistance to the Secretary of War and to general officers and other superior commanders and of acting as their agents in informing and coordinating the action of all the different officers who are subject under the provisions of law to the supervision of the Chief of Staff.

"They perform such other military duties not otherwise assigned by law as may from time to time be prescribed by the President. Under the authority here conferred officers of the General Staff Corps are intrusted with the executive duties hereinafter indicated."

* * * * *

"7. The foregoing assignment of duties to the General Staff Corps does not involve in any degree the impairment of the initiative and responsibility which special staff corps and departments now have in the transaction of current business."

* * * * *

CHIEF OF STAFF
Relations and Selection

"10. Under the act of February 14, 1903, the command of the Army of the United States rests with the constitutional commander-in-chief, the President. The President will place parts of the Army, and separate armies whenever constituted, under commanders subordinate to his general command; and, in case of exigency seeming to him to require it, he may place the whole Army under a single commander subordinate to him; but in time of peace and under ordinary conditions the administration and control of the Army are effected without any second in command.

"The President's command is exercised through the Secretary of War and the Chief of Staff. The Secretary of War is charged with carrying out the policies of the President in military affairs. He directly represents the President and is bound always to act in conformity to the President's instructions. Under the law and the decisions of the Supreme Court his acts are the President's acts, and his directions and orders are the President's directions and orders.

"The Chief of Staff reports to the Secretary of War, acts as his military adviser, receives from him the directions and orders given in behalf of the President, and gives effect thereto in the manner hereinafter provided.

"Exceptions to this ordinary course of administration may, however, be made at any time by special direction of the President if he sees fit to call upon the Chief of Staff to give information or advice, or receive instructions, directly.

"Wherever in these regulations action by the President is referred to, the action of the President through the Secretary of War is included, and wherever the action of the Secretary of War is referred to the Secretary of War is deemed to act as the representative of the President and under his directions.

"The Chief of Staff is detailed by the President from officers of the Army at large not below the grade of brigadier general. The successful performance of the duties of the position requires what the title denotes - a relation of absolute confidence and personal accord and sympathy between the Chief of Staff and the President, and necessarily also between the Chief of Staff and the Secretary of War. For this reason, without any reflection whatever upon the officer detailed, the detail will in every case cease, unless sooner terminated, on the day following the expiration of the term of office of the President by whom the detail is made; and if at any time the Chief of Staff considers that he can no longer sustain toward the President and the Secretary of War the relations above described, it will be his duty to apply to be relieved."

* * * * *

Duties

"11. The Chief of Staff is charged with the duty of supervising, under the direction of the Secretary of War, all troops of the line, the Adjutant General's, Inspector General's, Judge Advocate General's, Quartermaster's, Subsistence, Medical, Pay, and Ordnance departments, the Corps of Engineers, and the Signal Corps. He performs such other military duties not otherwise assigned by law as may be assigned to him by the President.

"12. The supervisory power vested by statute in the Chief of Staff covers primarily duties pertaining to the command, discipline, training, and recruitment of the Army, military operations, distribution of troops, inspections, armament, fortifications, military education and instruction, and kindred matters, but includes also, in an advisory capacity, such duties connected with fiscal administration and supplies as are committed to him by the Secretary of War.

"In respect to all duties within the scope of his supervisory power, and more particularly those duties enumerated in this and the following paragraph, he makes and causes to be made inspections to determine defects which may exist in any matter affecting the efficiency of the Army and its state of preparation for war. He keeps the Secretary of War constantly informed of defects discovered, and under his direction issues the necessary instructions for their correction.

"13. Supervisory power is conferred upon the Chief of Staff over all matters arising in the execution of acts of Congress and executive regulations made in pursuance thereof relating to the militia. This supervision is especially directed to matters of organization, armament, equipment, discipline, training, and inspections. Proposed legal enactments and regulations affecting the militia and estimates for appropriations for its support are considered by him, and his recommendations submitted to the Secretary of War.

"14. The Chief of Staff is charged with the duty of informing the Secretary of War as to the qualifications of officers as determined by their records, with a view to proper selection for special details, assignments, and promotions, including detail to and relief from the General Staff Corps; also of presenting recommendations for the recognition of special or distinguished services.

"15. All orders and instructions emanating from the War Department and all regulations are issued by the Secretary of War through the Chief of Staff and are communicated to troops and individuals in the military service through the Adjutant General.

"16. The assignment of officers of the General Staff Corps to stations and duties is made upon the recommendation of the Chief of Staff."

* * * * *

"18. In the performance of the duties hereinbefore enumerated and in representation of superior authority, the Chief of Staff calls for information, makes investigations, issues instructions, and exercises all other functions necessary to proper harmony and efficiency of action upon the part of those placed under his supervision."¹⁶

159. The foregoing regulations were signed by Elihu Root, Secretary of War; and, as has been shown, were drawn under his direction and in part by him personally. Root, as has been said, had the ablest mind of his generation in the fields of law and government. For this reason, the act setting up the General Staff and the initial regulations are of capital importance. They show how that great man, Elihu Root, meant that the General Staff and Chief of Staff shall function.

160. Particular attention is invited to paragraph 10 of the above regulations, in which the theory of command of the Army is expressed with the greatest clarity and correctness, whether the subject be considered from the standpoint of law or that of policy. This paragraph is one of those written by Root personally. What has already been said in this paper on the subject¹⁷ is in accord with the paragraph just cited.

161. Pursuant to the act and the regulations, the Chief of Staff and the General Staff supervise,¹⁸ investigate, consider, and report;¹⁹ prepare projects, orders, and plans;²⁰ revise and review estimates and reports;²¹ collect information;²² render professional aid;²³ inform and coordinate;²⁴ inspect;²⁵ and recommend;²⁶ but nowhere is it stated they command anybody or anything. "Under his direction"²⁷ (i.e. the Secretary's),

16. G.O. 120, Hq. of the Army, Aug. 14, 1903.

17. Pars. 5-20 of this paper.

18. Sec. 4 of the act; pars. 2, 11, and 13 of the regulations above quoted.

19. Sec. 2 of the act; pars. 3 and 18 of the regulations.

20. Sec. 2 of the act; par. 3 of the regulations.

21. Par. 3 of the regulations.

22. Par. 4 of the regulations.

23. Sec. 2 of the act, par. 5 of the regulations.

24. Sec. 2 of the act, pars. 5, 12, and 14 of the regulations.

25. Par. 12 of the regulations.

26. Par. 14 of the regulations.

27. Par. 12 of the regulations.

or "In representation of superior authority,"²⁸ the Chief of Staff may issue instructions; but that falls far short of exercising command. The account previously given²⁹ of the colloquy with Senator Foraker shows that Root and Carter purposely avoided the use of the word "command". In refraining from the grant of command power to the Chief of Staff, those two able men were putting into practice the lesson taught by seventy-five years' experience with generals of the army, that under our Constitution and laws command is vested in the President and his deputy, the Secretary of War, that no officer under them can in fact and in truth command the Army, and that to tell one of them that he does so is likely to make trouble. It is also to be noted that the General Staff is forbidden³⁰ to impair the initiative and responsibility of the special staff corps and departments.³¹

162. With only a few changes of minor importance, the foregoing regulations were reissued in the Army Regulations of 1904,³² 1908,³³ 1910,³⁴ and 1913.³⁵

163. On April 14, 1906, the Secretary of War issued an order respecting the transaction of business in the War Department, set forth below in full:

"WAR DEPARTMENT,
Washington, April 14, 1906

"ORDERS:

"All business arising in the Army which is referred to The Military Secretary for the action of superior authority, and which does not come within the jurisdiction of chiefs of bureaus, and all business emanating from the bureaus of the Department requiring the action of higher authority, will be submitted to the Chief of Staff for his consideration.

"The Assistant Secretary of War is vested with authority to decide all cases which do not involve questions of policy, the establishment or reversal of precedents, or matters of special or extraordinary importance. Matters coming within these exceptional classes will be submitted by the Chief of Staff to the Secretary of War direct. All other matters will be submitted by the Chief of Staff to the Assistant Secretary of War. Should the Assistant Secretary of War think that the questions submitted to him by the Chief of Staff come within

28. Par. 18 of the regulations.

29. See Pars. 151, 152, and 154 of this paper.

30. Par. 7 of the regulations.

31. Chart IV, on page 140, shows the organization of the War Department and the Army immediately after the creation of the General Staff.

32. Pars. 755-776.

33. Pars. 755-776.

34. Pars. 763-784.

35. Pars. 752-773.

the exceptional classes, he will submit them to the Secretary. The Chief of Staff will indorse upon every paper coming to him his recommendations, views, or remarks, and transmit the same to the Secretary of War or to the Assistant Secretary of War, as the above rules require.

"The submission of matters to the Secretary by the Chief of Staff will be in person. Before presentation to either the Secretary or the Assistant Secretary the cases should be completed by obtaining the necessary recommendation, reports, or information from the bureaus of the Department or the military authorities outside of the Department, and to this end the Chief of Staff is authorized to call therefor 'by order of the Secretary of War.'

"Business which reaches the Secretary's office, or that of the Assistant Secretary, and is acted upon through the channels above described, will be returned to the Chief of Staff, who will issue such orders through The Military Secretary as may be required 'By order of the Secretary of War.' The Chief of Staff is only empowered to issue orders in his own name or by his own direction to the General Staff Corps.

"These requirements should be clearly understood to relate to military business, and are not in any way an abrogation of the following direction in War Department Orders of November 7, 1905, viz:

'Matters of a purely civil nature will be referred by chiefs of bureaus direct to the Secretary of War unless otherwise required by their subject-matter.'

"All orders, regulations, and instructions contrary hereto are hereby revoked.

WM. H. TAFT,
Secretary of War"

164. The above order was not incorporated in later editions of Army Regulations above cited, but is cited in a foot-note in them. It was signed by William H. Taft, one of our ablest Secretaries of War. It will be noted that the order:

a. Makes the Chief of Staff subordinate to the Secretary of War and the Assistant Secretary.

b. Requires that business emanating from the bureaus pass through the Chief of Staff to the Secretary or the Assistant Secretary.

c. Requires the Chief of Staff to indorse his recommendations on every paper coming before him.

165. In principle, all the foregoing requirements and directions are sound, except that perhaps the limitation in subparagraph "g", above, should be broadened by authorizing the Chief of Staff to issue orders with respect to staff matters in his own name to any officer of the Army Staff, and not merely to those of the General Staff. The amount of business now passing through the Department is so great that any Secretary in our time would have to delegate to an Assistant Secretary or the Chief of Staff more authority than Mr. Taft gave them.

166. On June 3, 1916, there was enacted the original National Defense Act, sec. 5³⁶ of which dealt with the General Staff Corps. More than half of this long section is concerned with the selection and organization of the Corps, and the provisions with respect to duties are not so much definitions as limitations and prohibitions. The first of these is as follows:

"All officers detailed in said corps shall be exclusively employed in the study of military problems, the preparation of plans for the national defense and the utilization of the military forces in time of war, in investigating and reporting upon the efficiency and state of preparedness of such forces for service in peace or war, or on appropriate general staff duties in connection with troops, including the National Guard, or as military attaches in foreign countries, or on other duties, not of an administrative nature, on which they can be lawfully and properly employed."³⁷

167. It is next directed that the mobile army and coast artillery divisions of the office of Chief of Staff be abolished "and shall not be re-established", and that their duties be transferred to the offices of the Chief of Coast Artillery and the Adjutant General and to other bureaus, "except such as comes clearly within the general powers specified in and conferred upon members of the General Staff Corps by the organic Act of Congress approved February 14, 1903". Section 5 goes on:

". . . subject to the exercise of the supervising, coordinating, and informing powers conferred upon members of the General Staff Corps by the Act of Congress last hereinbefore cited, the business transferred by this proviso to certain bureaus or offices shall hereafter be transacted exclusively by or under the direction of the respective heads thereof;".³⁸

* * * * *

"That hereafter members of the General Staff Corps shall be confined strictly to the discharge of the duties of the general nature of those specified for them in this section and in the organic Act of Congress last hereinbefore cited, and they shall not be permitted

36. 39 Stat. 167.

37. 39 Stat. 167.

38. 39 Stat. 168.

to assume or engage in work of an administrative nature that pertains to established bureaus or offices of the War Department, or that, being assumed or engaged in by members of the General Staff Corps, would involve impairment of the responsibility or initiative of such bureaus or offices, or would cause injurious or unnecessary duplication of or delay in the work thereof."³⁹

168. The frequent references in the act of 1916 to the organic act of February 14, 1903, establishing the General Staff,⁴⁰ show that it continued in force, along with the National Defense Act. The passages just quoted show most clearly and forcibly that, when it enacted the National Defense Act, Congress intended that the Chief of Staff should not be a Commanding General, but that he and the General Staff should be limited to staff duties of a general nature not pertaining to any of the staff departments then existing.

169. The United States entered the first World War April 6, 1917.⁴¹ The high command of the Army continued to function without important change until the issuance of G.O. 160, War Department, December 20, 1917, setting up a War Council, to consist of certain general officers, and defining its duties and powers.

170. By G. O. 14, War Department, February 9, 1918, the duties of the Chief of Staff were thus described:

"1. The Chief of the General Staff, with the assistance of the War Council created under General Orders, No. 160, War Department, 1917, is the immediate adviser of the Secretary of War upon all matters relating to the Military Establishment, and is charged by the Secretary of War with the planning and development of the Army program in its entirety. He exercises such supervising and coordinating powers and secures such information as his judgment may dictate, to the end that the war policies of the Secretary of War may be harmoniously executed by the several corps, bureaus, and all other agencies of the Military Establishment, and the Army program to its last detail be carried out speedily and efficiently. The planning of the Army program in its entirety, the constant development thereof in its larger aspects, and the relating of this program to the General Staff and the entire Army will be the duty of the Chief of Staff and the War Council. The burden upon the Chief of Staff, the Assistant Chiefs of Staff, and the officers forming the General Staff in their duties in connection with the administration of the Army program by the Military Establishment has so increased that it becomes immediately necessary to organize the General Staff into responsible divisions.

39. 39 Stat. 168.

40. 39 Stat. 166.

41. 40 Stat. 1.

"Accordingly the Chief of Staff is directed to organize the General Staff into five main divisions under his direct control and to attach to the General Staff such personnel, officers, and civilians that the work of the General Staff may proceed. Each division shall be under an officer, who shall have full power to act for the Secretary of War and the Chief of Staff upon all matters charged to his division."

171. Near the end of the order in a note appears the following:

"The officer in charge of each division of the General Staff is authorized to issue instructions of the Secretary of War and the Chief of Staff as to matters within his control which involve the carrying out of policies approved by the Secretary of War and the Chief of Staff, and may confer this authority to the chiefs of sections within his division."

172. Why the term "Chief of the General Staff" should be used in the opening sentence is not clear. Elsewhere in the order and in the diagram attached he is called Chief of Staff. Further on, the same order sets up the Executive, War Plans, Purchase and Supply, Storage and Traffic, and Army Operations Divisions of the General Staff, each with duties defined in detail, and each under an Assistant Chief of Staff. Each of such officers, except the executive, was also called a director. The verb "direct" is a synonym for "order", and permits the implication that the person called "director" is authorized to give orders in his own name, something which no staff officer should do except to members of the staff junior to himself. The use of the word "director" on this and subsequent occasions, as a part of the title of a staff officer, is contrary to sound staff theory, and liable to lead to misapprehension as to the extent of his powers.

173. The variance between the last sentence quoted⁴² from paragraph 1 of G.O. 14 and the sentence quoted⁴³ from the note attached to that order causes some obscurity. If the former be taken alone, it is a complete delegation of the Secretary's power to each of the Assistant Chiefs of Staff, the like of which does not appear in any earlier order or regulation. If the latter be read alone, it confers no more authority than is to be inferred from the detail of an officer as Assistant Chief of Staff. If the two be read together, the latter is a limitation on the power delegated by the former, but it seems odd to place in a note a limitation on a power granted in the body of the order four pages before.

42. In par. 170 of this paper.

43. In par. 171 of this paper.

174. Two months after the issuance of the order above discussed, the third and fourth of the General Staff divisions created thereby were consolidated by Section I, G.O. 36, War Dept., April 16, 1918, into the Purchase, Storage, and Traffic Division of the General Staff.

175. By the Overman Act of May 20, 1918, Congress authorized the President to redistribute functions, consolidate offices and agencies, and transfer duties and powers during the first World War then in progress, with respect to matters relating to its conduct;⁴⁴ but it does not appear that the powers granted to the President were exercised as to the Secretary of War or the Chief of Staff, unless the definitions of the latter's duties cited herein may be considered such.

176. The provisions of G.O.'s 14 and 36 of 1918, already quoted or summarized herein,⁴⁵ were modified by G.O. 80, War Department, August 26, 1918. That order contains a much briefer definition of the duties of the Chief of Staff, as follows:

"1. The Chief of the General Staff is the immediate adviser of the Secretary of War on all matters relating to the Military Establishment, and is charged by the Secretary of War with the planning, development, and execution of the Army program. The Chief of Staff by law (act of May 12, 1917) takes rank and precedence over all officers of the Army, and by virtue of that position and by authority of and in the name of the Secretary of War, he issues such orders as will insure that the policies of the War Department are harmoniously executed by the several corps, bureaus, and other agencies of the Military Establishment, and that the Army program is carried out speedily and efficiently."

177. The order last cited created an executive assistant to the Chief of Staff and four divisions of the General Staff, each under a director, as follows: Military Intelligence; War Plans; Operations; and Purchase, Storage, and Traffic. It stated in detail the duties of each division. Chart V, on page 85, shows the organization of the War Department and the Army, as set up by G. O. 14 and modified by G. O.'s 36 and 80 of 1918. The last of those orders omitted the broad delegation of power to the Assistant Chiefs of Staff contained in paragraph 1 of G.O. 14;⁴⁶ but provided, in accordance with correct theory:

"The director of each division of the General Staff is authorized to issue instructions in the name of the Secretary of War and of the Chief of Staff for carrying out the policies approved by the Secretary of War and the Chief of Staff, within his control."

178. On June 5, 1920, four years and one day after the passage of the National Defense Act, there was approved an amendatory act, which wrote

44. 40 Stat. 556.

45. In pars. 170, 171, and 174 of this paper.

46. See the last sentence of the quotation in par. 171 of this paper.

a new section 5, which it substituted for that passed in 1916. As then rewritten, section 5 contained the following passages concerning the duties of the War Department General Staff and the Chief of Staff:

"The duties of the War Department General Staff shall be to prepare plans for national defense and the use of the military forces for that purpose, both separately and in conjunction with the naval forces, and for the mobilization of the manhood of the Nation and its material resources in an emergency, to investigate and report upon all questions affecting the efficiency of the Army of the United States, and its state of preparation for military operations; and to render professional aid and assistance to the Secretary of War and the Chief of Staff."⁴⁷

179. It will be observed that the foregoing is, with minor changes, a repetition in part, but in part only, of section 2 of the act of February 14, 1903, creating the General Staff.⁴⁸ Section 5, as rewritten in 1920, goes on to say:

"The Chief of Staff shall preside over the War Department General Staff and, under the direction of the President, or of the Secretary of War under the direction of the President, shall cause to be made, by the War Department General Staff, the necessary plans for recruiting, organizing, supplying, equipping, mobilizing, training, and demobilizing the Army of the United States and for the use of the military forces for national defense. He shall transmit to the Secretary of War the plans and recommendations prepared for that purpose by the War Department General Staff and advise him in regard thereto; upon the approval of such plans or recommendations by the Secretary of War, he shall act as the agent of the Secretary of War in carrying the same into effect. Whenever any plan or recommendation involving legislation by Congress affecting national defense or the reorganization of the Army is presented by the Secretary of War to Congress, or to one of the committees of Congress, the same shall be accompanied, when not incompatible with the public interest, by a study prepared in the appropriate division of the War Department General Staff, including the comments and recommendations of said division for or against such plan as may be made by the Secretary of War, the Chief of Staff, or individual officers of the division of the War Department General Staff in which the plan was prepared."⁴⁹

47. 41 Stat. 736.

48. Quoted in par. 156 of this paper.

49. 41 Stat. 764.

180. The 1920 act repeated⁵⁰ without change the provision in the 1916 act confining General Staff officers to duties of a general nature specified in the original act of 1903, and forbidding them to engage in work of an administrative nature pertaining to the established bureaus.

181. These statutory provisions show that in 1920 it was the intention of Congress, as it was when it first spoke in 1903:

a. That the Chief of Staff should be a chief of staff to the President and the Secretary of War, and not a Commanding General.

b. That the General Staff should not interfere with or duplicate the proper work of the staff departments.

182. Parts of sections 2 and 4 of the act of February 14, 1903⁵¹ with respect to the duties of the General Staff and the Chief of Staff, are neither repeated in nor expressly repealed by either the National Defense Act of 1916 or the amendatory act of 1920. However, as there was no inconsistency between them and the later acts, those provisions remained in force.⁵² The law in force on the subject then was:

a. Sections 2 and 4 of the act of February 14, 1903,⁵³ and

b. Those parts of Section 5 of the National Defense Act, as rewritten in the act of June 5, 1920, which dealt with duties.⁵⁴ Section 5 of the National Defense Act lists as one of the duties of the General Staff the preparation of plans "for the mobilization of the manhood of the Nation and its material resources in an emergency." The National Security Act of 1947 as amended does not expressly repeal or amend the words just quoted; but it imposes those duties upon the National Security Resources Board,⁵⁵ the Joint Chiefs of Staff,⁵⁶ and the Munitions Board,⁵⁷ and thereby takes them away from the General Staff of the Army.

50. 41 Stat. 764.

51. Quoted in par. 156 of this paper.

52. A contrary opinion seems to have been held by the editors who compiled the U.S. Code in 1926, as they omitted the provisions in question. They were, however, later placed in the Code as sections 32a and 33a of Title 10.

53. Quoted in par. 156 of this paper.

54. Quoted in pars. 178 and 179 of this paper.

55. Sec. 103(c).

56. Sec. 211(b).

57. Sec. 213(c).

183. The foregoing laws, as amended to the date of publication, are found on pages 21-24 of the pamphlet containing the National Defense Act and the Pay Readjustment Act, printed for the use of the Committee on Military Affairs of the Senate in 1945, commonly called the "green book". They also appear in Title 10 of the United States Code, sections 32, 32a, 33, 33a, 34, 36, 38. In using the green book, or the Code otherwise than in a late pocket supplement, the reader should bear in mind the amendment by implication mentioned in the last part of the preceding paragraph, and should also substitute "Department of the Army" and "Secretary of the Army" for "War Department" and "Secretary of War", respectively. Furthermore, the duty imposed upon the War Department General Staff by section 5 of the National Defense Act to prepare plans in conjunction with the naval forces, and for the mobilization of the manhood of the Nation,⁵⁸ is now a function of the National Military Establishment.

184. The act of June 4, 1920, wrote into the National Defense Act a new section, 5a,⁵⁹ which abolished the Second and Third Assistant Secretaries of War, and charged the sole remaining Assistant Secretary, under the direction of the Secretary, with supervision over procurement of all military supplies. It further provided:

"Under the direction of the Secretary of War chiefs of branches of the Army charged with the procurement of supplies for the Army shall report direct to the Assistant Secretary of War regarding all matters of procurement."⁶⁰

185. The provision just quoted,⁶¹ has the effect of excluding the Chief of Staff and the General Staff from any supervision of procurement. This action was based upon the view, of which Mr. Benedict Crowell, Assistant Secretary of War during World War I, was the principal proponent,⁶² that procurement is a matter of manufacturing and business, that army officers (or at any rate officers of the General Staff) are not as experienced in such matters as civilians, and that therefore procurement ought to be taken out of military hands and placed in those of civilians. That there is some basis for this theory may be admitted; but at most it is applicable only to procurement in the narrowest sense; and the determination of requirements, what articles the Army needs, their number or quantity, their material, design, and quality, are matters as to which Army personnel, and particularly line officers of the Army, are entitled to be heard, since they must use or

58. 41 Stat. 763, 10 U.S. Code 34, quoted in par. 178 of this paper.

59. 41 Stat. 764.

60. 41 Stat. 765. For a graphic representation of the result of this provision, see Chart VI, following par. 190.

61. See pars. 203 and 204 of this paper.

62. Crowell and Wilson, *Armies of Industry*, pp. 10, 11, 16, and 18.

consume these articles, and they know better than any one else what they need. Also, after these articles have been procured, Army personnel should distribute them to the military users or consumers; many of whom in time of war will be at the front, where civilians would be out of place.

186. This statutory provision put the supply departments under the supervision of the Assistant Secretary for some of their duties and under that of the Chief of Staff for others, an arrangement bad for two reasons. In the first place, in ascending the scale of authority there should be integration, not dispersal. Two men should not each have the right to boss one, and no man can serve two masters. In the second place, this arrangement was bad because it by-passed the Chief of Staff and the General Staff so far as procurement was concerned. It gave the supply departments a channel of responsibility and communication through the Assistant Secretary to the Secretary, not passing through the Chief of Staff; a set-up similar to that which existed in practice prior to the creation of the General Staff in 1903, which led the chiefs of the staff departments to think themselves independent of the General of the Army and was one of the causes for the friction and quarrels related in the earlier part of this paper.⁶³ Furthermore, in order properly to perform his job, the Chief of Staff must get the whole picture, logistic as well as strategic. It is for him to advise the Secretary of the Army and the President whether a proposed expedition or campaign should be undertaken; and a most important factor in his decision is the answer to the question whether the necessary supplies can be obtained, and obtained in time. The Chief of Staff can not intelligently answer that question unless the chiefs of the supply departments report to him.⁶⁴

187. Let us continue our consideration of general orders and Army Regulations affecting the high command of the Army. Section III, G.O. 48, War Department, August 12, 1920, revoked the general orders issued in 1918 concerning the duties of the Chief of Staff and the General Staff and provided:

"1. The Chief of Staff is the immediate adviser of the Secretary of War on all matters relating to the Military Establishment, and is charged by the Secretary of War with the planning, development and execution of the Army program. He shall cause the War Department General Staff to prepare the necessary plans for recruiting, organizing, supplying, equipping, mobilizing, training and demobilizing the Army and for the use of the military forces for national defense. As agent of, and in the name of the Secretary of War, he issues such orders as will insure that the policies of the War Department are harmoniously executed by all branches and agencies of the Military Establishment and that the Army program is carried out speedily and efficiently."

63. Pars. 52-145.

64. In support of this view, see Sec. Baker's opinion quoted in par. 238 of this paper.

"2. The War Department General Staff is charged with the preparation of plans as outlined in the preceding paragraph, including those for the mobilization of the manhood of the nation and its material resources. It will investigate and report upon questions affecting the efficiency of all branches of the Army and the state of preparation of all branches for military operations. It will perform such other military duties, not otherwise prescribed by the President, and will render professional aid to the Secretary of War, the Assistant Secretary of War and the Chief of Staff."

188. By Change in Army Regulation 113, February 2, 1921, the Army Regulations on the General Staff were rewritten and considerably shortened. However, the Chief of Staff and the General Staff still remained what those titles mean. The one did not become a commanding general, nor the other an operating agency.

189. By paragraph 25, S.O. 155-0, War Department, July 7, 1921, there was convened at the War Department a board of which the President was Major General James G. Harbord, who had been Chief of Staff of the American Expeditionary Forces during a large part of the first World War, which board was charged, among other duties, with recommending the future organization of the War Department General Staff. It submitted a report,⁶⁵ to which it appended a draft general order to put into effect its recommendations. Accordingly, there was promulgated G.O. 41, War Department, August 16, 1921. Only three months later there was issued the first of the pamphlet Army Regulations, AR 10-15, General Staff, Organization and General Duties, November 25, 1921. The General Order and Army Regulation cited were each copies, with minor changes only, of the drafts prepared by the Harbord board.

190. In discussing the new set-up, it will be more convenient to refer to the paragraphs as they are numbered in AR 10-15, November 25, 1921. Paragraph 1 is headed "Chief of Staff, general duties." This is ten lines in length, and is all there is on the subject of the duties of the Chief of Staff. Paragraph 4 is headed, "War Department General Staff, general duties". Subparagraph 4a is a much abbreviated rewriting of paragraphs on the same subject in earlier Army Regulations. On the other hand, paragraph 7 sets up the five divisions of the General Staff, G-1, G-2, G-3, G-4, and War Plans Division, which we had for many years thereafter; and each of the paragraphs from 8 to 12 states in considerable

65. Printed in the National Defense Hearings before the Committee on Mil. Affairs, H.R. 69th Cong. 2d Sess., 1927, p. 646.

detail the duties of one of them.⁶⁶ Paragraph 4b is a limitation, as follows:

"b. The divisions and subdivisions of the War Department General Staff will not engage in administrative duties for the performance of which an agency exists, but will confine themselves to the preparation of plans and policies (particularly those concerning mobilization) and to the supervision of the execution of such policies as may be approved by the Secretary of War."

191. Paragraph 6 says:

"6. Issuance of Instructions- The Deputy Chief of Staff and the Assistant Chiefs of Staff, in charge of the divisions of the General Staff hereinafter provided for, are authorized on matters under their supervision to issue instructions in the name of the Secretary of War and the Chief of Staff."

192. The foregoing gives the Deputy and the Assistant Chiefs of Staff a free hand to issue any instructions they please in the name of either the Secretary of War or the Chief of Staff. Unless it were the obscure provision of G.O. 14 of 1918,⁶⁷ no earlier order or regulation went so far. The provisions just quoted is very different from the carefully worded delegation of authority in Secretary Taft's order of April 14, 1906;⁶⁸ and reminds one of General Schofield's complaint that, until he stopped that practice, the Adjutant General was issuing orders in the name of the Secretary of War or the general of the army, as he pleased, without previous reference of the intended orders to either.⁶⁹ No doubt the increase in the volume of business passing through the department made necessary a greater delegation of authority than General Schofield or Secretary Taft thought proper, but such an unlimited grant as that made in the paragraph just quoted risks the reduction of the Secretary of War and the Chief of Staff to figure-heads. Such a delegation would be intolerable if the Secretary of War and the Chief of Staff did not place the fullest confidence in the Deputy and Assistants, as they usually do. Presumably the Secretary of War and the Chief of Staff give oral directions to these subordinates as to the line to be drawn between matters on which the latter

66. Chart VI shows the organization set up by G.O. 41, War Dept., 1921; AR 10-15, Nov. 25, 1921; and sec. 5a, added to the National Defense Act in 1920 and discussed in pars. 184-186 of this paper.

67. See pars. 170, 171, and 173 of this paper.

68. Quoted in par. 163 of this paper.

69. See par. 104 of this paper.

may act and those which they must reserve for higher authority; but it would seem better administrative practice to do as Mr. Taft did, and publish a regulation or order on the subject.

193. There are several omissions from AR 10-15, November 25, 1921, of provisions which had appeared in previous Regulations, one of which will be mentioned. In the original regulations for the General Staff, drawn in 1903 under the supervision of Elihu Root and in part written by him, appears the following under the heading, "Chief of Staff":

"The successful performance or the duties of the position requires what the title denotes - a relation of absolute confidence and personal accord and sympathy between the Chief of Staff and the President, and necessarily also between the Chief of Staff and the Secretary of War. For this reason, without any reflection whatever upon the officer detailed, the detail will in every case cease, unless sooner terminated, on the day following the expiration of the term of office of the President by whom the detail is made; and if at any time the Chief of Staff considers that he can no longer sustain toward the President and the Secretary of War the relations above described, it will be his duty to apply to be relieved."⁷⁰

194. Mr. Root's ideas on this point are also shown by the following remarks by him at the hearing on December 13, 1902, before the Committee on Military Affairs of the House of Representatives on the Bill establishing the General Staff, as follows:

"It" (the title of Chief of Staff) "carries with it the idea of the utmost confidence on the part of the superior officer - the President - and the utmost loyalty on the part of the officer who assumes the position of Chief of Staff. It carries with it the obligation on the part of the Chief of Staff with the utmost fidelity to lay aside all ideas of personal aggrandizement, except by promoting the efficiency and carrying out the policy of his superior."⁷¹

* * *

"Mr. Stevens. Does that mean that the President shall have the power to change the staff to conform to his views?"

70. See a fuller quotation from these regulations in par. 158 of this paper.

71. Reprinted in the National Defense Hearings before the Committee on Mil. Affairs, H.R., 69th Cong., 2d Sess., Part I, Historical Docs., p. 118.

"Mr. Root. Yes, sir; it ought to be so. It is impossible that you should have effective administration unless the man at the head can have his ideas carried out by men in whom he has confidence and who are loyal to him."⁷²

195. At a hearing about the same time before the corresponding committee of the Senate, John M. Schofield, who had been at one time Secretary of War and at another General of the Army, was even more forthright on the subject. Said he:

"The personal relations between the President, the Secretary of War, and the commanding general are, after all, more important than any law, and that is one of the reasons why this bill is absolutely indispensable, or something like it. You must give to the President discretion to select that man. You might as well leave over a Cabinet Officer from the preceding administration who belonged to another party."⁷³

196. A provision substantially the same as that above quoted⁷⁴ appeared in every edition of Army Regulations from 1903 to 1921, but has not appeared since.

196a. In previous paragraphs⁷⁵ of this paper, reference has been made to recent differences of opinion between the Secretary of the Navy and certain officers of high rank in that service. Some newspapers have referred to the relief of Admiral Louis E. Denfeld from the position of Chief of Naval Operations as a "dismissal", and have accused the President and the Secretary of injustice to an able and distinguished officer. No officer of any of the armed services could serve so long as Admiral Denfeld and hold such responsible assignments without forming some ideas as to how his service should be run. It is nothing to his discredit if those ideas should be at variance with the policies of his superior, the Secretary. If neither is able to convince the other that he is wrong; the principle of civilian control of the armed services, which as has been said,⁷⁶ is basic in our government, and the express words of the Constitution making the President the Commander in Chief,⁷⁷ require the

72. Same, p. 122.

73. Reprinted in the National Defense Hearings before the Committee on Mil. Affairs, H.R., 69th Cong., 2d Sess. Part I, Historical Docs., p. 85.

74. In par. 193 of this paper.

75. Pars. 142a-e.

76. In par. 10 of this paper.

77. See pars. 1-20 of this paper.

military man to yield and loyally support the policies of his civilian superior. If he finds himself unable to do so, he should ask to be relieved. The regulation drawn by Secretary Root, and already quoted,⁷⁸ in force in the Army from 1903 to 1921, merely stated this principle and applied it to the Chief of Staff. If the Navy had had such a regulation as that drawn by Secretary Root for the Army, and had made it applicable to the Chief of Naval Operations, Admiral Denfeld's relief pursuant to it might have been accomplished with less friction, without discredit to him, and without accusations that the Secretary had done him an injustice.

196b. A similar situation might arise in the Army. The regulation drawn by Root, and in force for many years, requiring the Chief of Staff to ask to be relieved upon the expiration of the President's term, and at any other time when he is not in accord and sympathy with the President and the Secretary, was wise and just, and should be restored.

197. Two years after the issue of the Army Regulations just discussed, on October 13, 1923, the War Department published a "Handbook for the War Department General Staff." On the very first page of that pamphlet it is stated:

"The relations of the Secretary of War with the War Department General Staff, as they are set forth in the law, are in accord with past military experience and sound military policy, which is that one-man authority and responsibility is fundamental to military organization. The one man in the War Department is the Secretary of War, and as the representative of the President he exercises control of the Army and is responsible for the proper administration of the Military Establishment. There can be no hope of building up or maintaining an efficient organization which is commanded by a committee or a council or a staff. The War Department General Staff, as such, exercises no command."⁷⁹

"Next to the President, in line of command,⁸⁰ but subject to the orders of the Secretary of War as the representative of the President, and to the supervision of the Chief of Staff, are corps area and department commanders, commanders of various independent activities, such as the general and special service schools, and, in time of war, the commander in chief at General Headquarters, who report directly to the War Department and issue orders in their own names."

78. In par. 193 of this paper.

79. Underscoring supplied.

80. Italics in the original.

198. The foregoing is believed to be both important and sound. The writer of the handbook, and those who authorized its publication, were obviously of that opinion, or else they would not have put the sentences above quoted on the first page.

199. The lack of any official written statement of what matters must be sent to the Secretary of War for his personal action, upon which comment has been made;⁸¹ is supplied by this handbook. On page 2 it is said, with respect to the Secretary:

" . . . there are brought to his attention all proposed new policies of a general nature, all major exceptions to existing policies, and all other matters that common sense, or his personal desires, dictate should come to him. All matters having a political aspect are his."

200. The handbook goes on to enumerate, in addition, fifteen sorts of business as to which the Secretary reserves to himself final action. There is no more recent edition of this handbook, nor any rescission of it; but apparently it is not now in force.

200a. By section 9 of the act of July 2, 1926,⁸² there was created an additional Assistant Secretary of War, commonly called the "Assistant Secretary of War for Air", though the last two words are not found in the statute cited. That act states his duties to be "to aid the Secretary in fostering military aeronautics, and to perform such functions as the Secretary may direct". Paragraph 3, Circular J, War Department, December 11, 1926, which purports to define the duties of this new office, does little more than repeat the statute just quoted. That circular goes on to say:⁸³

"The channel of communication between the Secretary of War, the Assistant Secretary of War (Act of March 5, 1890), and the Air Corps on all matters of current procurement will be through the Assistant Secretary of War (Act of July 2, 1926). Correspondence pertaining to procurement planning will be sent direct to the Assistant Secretary of War (Act of March 5, 1890)."

200b. The foregoing expressly establishes a direct channel of communication between the Air Corps and the Assistant Secretary of War as to current procurement, by-passing the Chief of Staff.

81. In par. 192 of this paper.

82. 44 Stat. 784.

83. In par. 6.

200c. The first detailed statement of the duties of the Assistant Secretary of War for Air appears in AR 6-5, April 21, 1930. Among them are such matters as "the supervision of expenditures of funds appropriated for the Air Corps",⁸⁴ "the approval of layouts of Air Corps stations",⁸⁵ and "the approval of plans for Air Corps technical construction".⁸⁶ The conferment of general supervisory authority upon an Assistant Secretary of War over a single arm or branch, and in particular the imposition upon him of duties such as those cited, could hardly fail to cause direct and constant communication between him and the chief of that arm or branch, by-passing the Chief of Staff, and thereby preventing him from obtaining that full knowledge of all that is planned or done in the army staff, which is necessary for the intelligent exercise of his functions as military advisor to the Secretary and as chief of that staff.⁸⁷ Though the Secretary undoubtedly needs more than one Under or Assistant Secretary to help him, it is concluded that, for the reason just stated, no Under or Assistant Secretary should be placed directly and solely over any member of the staff, as such an arrangement tends to diminish the information and authority which the Chief of Staff needs for the proper discharge of his duties. The position of Assistant Secretary of War for Air was unfilled from 1933 to 1942, which seems to indicate that it was not urgently needed, at least in time of peace.

201. A new edition of AR 10-15, General Staff Organization and Duties, was published August 18, 1936. Paragraph 1 of the edition of 1921, on the duties of the Chief of Staff, became paragraph 1a without change. Paragraph 1b is new, and reads as follows:

"b. As Commanding General of the Field Forces. - The Chief of Staff, in addition to his duties as such, is, in peace, by direction of the President, the Commanding General of the Field Forces and in that capacity directs the field operations and the general training of the several armies, of the overseas forces, and of General Headquarters units. He continues to exercise command of the field forces after the outbreak of war until such time as the President shall have specifically designated a commanding general therefor."

202. To give a Chief of Staff command is a contradiction in terms. It has already been shown⁸⁸ that Secretary Root and General Carter vigorously opposed the conferment of the power to command upon the Chief of Staff. To make the Chief of Staff a Commanding General is to undo the work of Root and Carter in creating the General Staff and to return to the organization which existed from 1828 to 1903, when the Army was headed by a general of the army. As has been shown in previous parts of this paper⁸⁹ that plan did not work well.

84. Par. 2d.

85. Par. 2h.

86. Par. 2i.

87. See pars. 184-186 of this paper.

88. See pars. 151-154 of this paper.

89. See pars. 52-145 of this paper.

203. Section 1 of the Act of December 16, 1940,⁹⁰ created the office of Under Secretary of War. Section 2 amended Section 5a of the National Defense Act to read as follows:

"Hereafter the Secretary of the Army, in addition to other duties imposed upon him by law, shall be charged with the supervision of the procurement of all military supplies and other business of the Department of the Army pertaining thereto and the assurance of adequate provision for the mobilization of materiel and industrial organizations essential to wartime needs, and he may assign to the Under Secretary of the Army and The Assistant Secretary of the Army such duties in connection therewith as he may deem proper. * * * Chiefs of branches of the Army shall report regarding all matters of procurement direct to the Secretary of the Army, the Under Secretary of the Army, or The Assistant Secretary of the Army, as the Secretary of the Army shall have prescribed. * * *"⁹¹

204. As originally enacted, the above statute was temporary; but it was made permanent by the act of May 15, 1947.⁹² The Secretary delegated his functions under the above statute to the Under Secretary of War.⁹³ The delegation was later changed to the Assistant Secretary of War.⁹⁴

205. On December 18, 1941, only eleven days after the attack on Pearl Harbor, Congress enacted Title I of the First War Powers Act,⁹⁵ substantially a reenactment of the Overman Act of the First World War,⁹⁶ which authorized the President to redistribute functions, transfer duties, and consolidate offices, for the better conduct of the War.

206. On February 28, 1942, the President issued Executive Order 9082⁹⁷ entitled "Reorganization of the Army and Transfer of Functions

90. 54 Stat. 1224, 5 U.S.Code 181a.

91. 54 Stat. 1224, 10 U.S.Code 1193. For comments on provisions of this type, see pars. 184-186 of this paper.

92. 61 Stat. 93.

93. This delegation was made by War Department Orders C, 21 April 1941; repeated and confirmed by par. 7, Circular 59, War Dept., March 2, 1942; pars. 2 and 3, Circular 11, War Dept., 9 Jan. 1945; pars. 2 and 3, AR 5-5, 2 April 1945.

94. Par. 2, AR 5-5, 15 March 1948.

95. 55 Stat. 838.

96. See par. 175 of this paper.

97. 7 Federal Register 1609.

within the War Department." In the preamble, the President said that he did so by authority of the act cited in the preceding sentence and as Commander in Chief. The order set up a Ground Force, whose name was afterward changed to Field Forces, with a Commanding General; an Air Force within the Army; and a Service of Supply, whose name was afterwards changed to Army Service Forces. To place one officer in command of all land forces is to set up an organization similar to that of the 19th century, when the army had an officer called "general of the army", who, as has been shown, nominally commanded the army, but who nevertheless did not in fact and could not do so.^{97.1}

207. Paragraph 6 of Executive Order 9082, after conferring power upon the Secretary to carry out the reorganization and give detailed instructions with respect thereto, goes on to say: "Such duties by the Secretary of War are to be performed subject always to the exercise by the President directly through the Chief of Staff of his functions as Commander in Chief in relation to strategy, tactics, and operations."⁹⁸ There is nothing unconstitutional or illegal in the sentence just quoted. If the President wants to give his orders as to strategy and tactics direct to the Chief of Staff, and by-pass the Secretary of War, he may do so; just as the commanding officer of a tactical unit may give orders direct to units within his command, by-passing his chief of staff or executive; but such by-passing of the Secretary of War is contrary to the custom of the service. At the hearings on the bill to create the General Staff, Senator Alger, who had been Secretary of War, and Mr. Root, who then held that position, had this dialogue:

"Senator Alger. Let me ask you a question which I ought not to ask you, but I will, because no case of the sort ever occurred in my own experience. Has the President ever issued an order to the commanding general without issuing it through you?

"Secretary Root. I think not.

"Senator Alger. Is that the custom?

"Secretary Root. That is not the custom. Never in my time has there been any such thing done."⁹⁹

Senator Cockrell, who had served in the Senate many years, interjected:

97.1. See pars. 52-145 of this paper.

98. 7 Federal Register 1609.

99. Hearings before the Committee on Mil. Affairs of the Senate, Dec. 17, 1902, printed in Hearings before the Committee on Mil. Affairs, H.R. 69th Cong., 2d Sess., Part I, p. 135.

"I have never known the President to give direct orders, ignoring the Secretary of War. There is no doubt he could do it, and instead of a thing being done by order of the Secretary of War, the President could issue an order direct, as Commander in Chief; but I suppose it has always been done through the Secretary of War and communicated to the commanding general in that way."¹⁰⁰

208. It may safely be said that for the President to issue a military order otherwise than through the Secretary of War has been highly exceptional and contrary to custom at all times in our history. As a general rule, for reasons of policy though not of law, the President ought not to do so; just as a commanding officer ought not, save in exceptional cases, to by-pass his chief of staff or executive. The sentence quoted from Executive Order 9082 lends support to the notion that the Secretary of War is in charge of the fiscal and logistical side of the Army's work, but has nothing to do with military operations. That notion, which is without warrant of law, was one of the principal causes of the frequent squabbles between Secretaries of War and generals of the army from Winfield Scott to Miles. To get rid of it was one of the reasons for the replacement of the general of the army by the Chief of Staff.

209. Circular 59, War Department, March 2, 1942, was issued three days after the Executive Order and implemented it. Section 3 of that circular gave very brief definitions of the duties of the Chief of Staff and the General Staff; but those definitions will not be set out here, as they remained in force only four months, and were superseded by those quoted in the following paragraphs of this paper.¹⁰¹ The circular also set up the Services of Supply (whose title was soon changed to Army Service Forces), the Army Ground Forces (whose title was later changed to Army Field Forces), and the Army Air Forces, each under a Commanding General.¹⁰²

100. Same, p. 135

101. Pars. 210 and 212.

102. See Chart VII.

210. On July 13, 1942, there was published the latest edition of AR 10-15, General Staff - Organization and General Duties. Though it has never been formally rescinded, parts of it are inconsistent with subsequent statutes and circulars, so that it is difficult to tell how much of it is in force. That regulation has in paragraph 1 a definition of the duties of the Chief of Staff, as follows:

"1. CHIEF OF STAFF. - a. Executive of Commander-in-Chief. The Chief of Staff is the executive through whom the President of the United States, as Commander-in-Chief, exercises his functions in relation to strategy, tactics, and operations.

"b. Immediate adviser of Secretary of War. - The Chief of Staff is the immediate adviser of the Secretary of War and is charged by him with the planning, development, and execution of the military program.

"c. General. - The Chief of Staff exercises general supervision over the Army of the United States and the Military Establishment necessary thereto."

211. It is to be noted that this edition omits the statement contained in that of 1936,¹⁰³ that the Chief of Staff commands the field forces, presumably because such command had been conferred upon the Commanding General, Army Ground Forces, whose title was afterwards changed to Chief, Army Field Forces. Paragraph 1a, quoted above, is open to the objection that it contains no mention of the Secretary of War, and might be interpreted as supporting the erroneous notion¹⁰⁴ that the President issues his orders to the General of the Army or the Chief of Staff direct, and not through the Secretary of War, and the equally mistaken idea of Generals Scott,¹⁰⁵ Miles¹⁰⁶ Eagan,¹⁰⁷ and others, from which so much trouble has arisen, that the Secretary has no right to give orders to the General of the Army, the Chief of Staff, or other military personnel. It is also to be noted that in paragraph 1a the Chief of Staff is said to be the executive of the President in respect of strategy, tactics, and operations. Logistics is not mentioned, presumably because that was supposed to be the function of the Under Secretary. The Under Secretary of War had at that time, and the Under Secretary of the Army has now, supervision over procurement (producer logistics), but not over distribution and supply (consumer logistics). Even if it be admitted that civilian control of the former is advantageous,

103. Quoted in par. 201 of this paper.

104. Discussed in pars. 207 and 208.

105. See pars. 12 and 59 of this paper.

106. See par. 131 of this paper.

107. See par. 130 of this paper.

and is directed by law; that is not true of the latter. Distribution and supply are placed by law in military hands, and ought so to remain. Even in the field of procurement, the military are entitled to have a say as to requirements; i.e., what articles are needed; of what material, design, and quality; and in what quantity. The military are also entitled to be heard as to priority. These questions should be considered by persons of military training and experience in the G-4 of Supply Division of the General Staff, and recommendations with respect thereto submitted by it to the Chief of Staff. This last is necessary because the Chief of Staff can not otherwise properly supervise and control the work of that division of his staff. It is even more necessary because the problems above mentioned are tied in with the work of other divisions of the general staff; with G-1, because the procurement of subsistence, clothing, arms, and equipment must be correlated with the procurement of men; and with the War Plans or Operations Division, because operations, especially those of an offensive character, depend upon the procurement and supply of ammunition, gasoline, and other things. For these reasons, it is submitted that the word "logistics" should have been included in the sentence under consideration. The definition quoted in the preceding paragraph from the 1942 edition of AR 10-15 is faulty and may be dangerous, because it permits the implication that the Chief of Staff has nothing to do with logistics.

212. Paragraph 4 of the same edition of AR 10-15¹⁰⁸ thus defines the duties of the War Department General Staff:

"4. WAR DEPARTMENT GENERAL STAFF.-- The War Department General Staff, under the direction of the Chief of Staff, plans, and coordinates the development of the Army and assists the Chief of Staff in the direction of the field operations of the Army of the United States. It is specially charged with providing such broad basic plans and policies as will enable the Commanding Generals of the Army Ground Forces, Army Air Forces, Services of Supply, defense commands, task forces, and theaters of operation to prepare and execute detailed programs. The War Department General Staff supervises the execution of these detailed programs. In so doing, it does not engage in administrative duties or in operations for the performance of which an agency exists."

213. So far as it goes, the above definition is correct and in accord with the basic idea of the General Staff, though perhaps it might with advantage be fuller. However, paragraphs 7-11 of the same regulation state the duties of the several divisions of the General Staff in great detail.

108. That of July 13, 1942.

214. On May 14, 1946, the President issued Executive Order 9722,¹⁰⁹ citing in the preamble the first War Powers Act¹¹⁰ and his position as Commander in Chief as his authority for doing so. By that order the President directed the Secretary of War, within thirty days next ensuing, to reassign to such agencies as he might deem appropriate the powers previously assigned to the Services of Supply, which had been renamed the Army Service Forces. The same day there was issued Circular 138, War Department, 1946, a pamphlet of thirty-four pages, which completely reorganized the War Department, and among other things, abolished the Army Service Forces¹¹¹ and provided for a ground force, an air force within the Army, and six army areas.¹¹²

215. As has been said in this paper,¹¹³ Title I of the first War Powers Act¹¹⁴ authorized the President, notwithstanding any existing law, to redistribute governmental functions, to consolidate offices, and transfer duties, as he might think fit, the better to carry on the war. This is a tremendous power. It amounts to suspending all the laws on the organization of the government and authorizing the President to disregard them and to reshape the entire governmental machinery. King Charles I of England lost his head, and his son, King James II, his throne, because among other reasons, they presumed to suspend and disregard the laws. The grant of power is to the President. In Executive Order 9722 he undertook to delegate it to the Secretary of War. Was it lawful for him to do so? Probably so, since the acts of the Secretary within the scope of his authority are those of the President, even without any express delegation. Even so, it is suggested that it would have been preferable, on grounds of propriety and policy, for the exercise of so extraordinary a power to have taken the form of an Executive Order signed by the President himself, as had been done in the reorganization of 1942.¹¹⁵ What has just been said is equally applicable to the use of departmental circulars in effecting two later reorganizations.¹¹⁶

109. 11 Federal Register 5281.

110. Act of Dec. 18, 1941; 55 Stat. 838. See par. 205 of this paper.

111. Par. 5 of the Circular.

112. Par. 2a of the Circular.

113. Par. 205 of this paper.

114. Act of Dec. 18, 1941, 55 Stat. 838.

115. See par. 206 of this paper.

116. See Circulars 64 and 342, Dept. of the Army, 10 March and 1 Nov 1948, respectively.

216. Let us examine the text of Circular 138, the instrument used to describe and put into effect the reorganization of 14 May 1946. It thus defines the duties of the Chief of Staff:

"CHIEF OF STAFF. - The Chief of Staff is the principal military adviser to the President and to the Secretary of War on the conduct of war and the principal military adviser and executive to the Secretary of War on the activities of the Military Establishment. The Chief of Staff has command of all components of the Army of the United States and of the operating forces comprising the Army Ground Forces, the Army Air Forces, the army areas, oversea departments, task forces, base commands, defense commands, commands in theaters of operations, and all other commands, and the related supply and service establishments of the Army, and is responsible to the Secretary of War for their use in war and plans and preparations for their readiness for war. The Chief of Staff, under the direction of the Secretary of War, is responsible for the coordination and direction of the War Department General and Special Staffs and the administrative and technical services.¹¹⁷

217. The foregoing paragraph makes the Chief of Staff the Commanding General of all components of the Army, the ground and air forces, army areas, departments, commands, theaters, supply and service establishments all over the world. In short, it makes him the Commanding General, U.S. Army. The exercise of command by a Chief of Staff is a contradiction in terms and at variance with the original idea of a general staff, as that idea originated in Europe, as it developed there both in Germany and in France, as it was adapted to American conditions by Carter and promulgated by Root, as it was clothed in statutory form by several Congresses, and as it successfully operated from 1903 to 1936 and again from 1942 to 1946,¹¹⁸ a total of thirty-seven years. The paragraph last quoted revived in substance, though not in name, the position of General of the Army, notwithstanding the difficulties and frictions, which, as has been shown,¹¹⁹ marked its history for seventy-five years, even when it was filled by such great soldiers as Scott, Grant, Sherman, and Sheridan. If the sentence with respect to command be taken out of the above definition of the duties of the Chief of Staff, there is not much left, but that little is correct as far as it goes.

218. In Circular 138 of 1946, the duties of the General Staff are defined in paragraph 19, of which the first part is as follows:

"10. WAR DEPARTMENT GENERAL STAFF. - The War Department General Staff, under the direction of the Chief of Staff, will be responsible

117. Par. 8 of the Circular.

118. From 1936 to 1942, pursuant to par. 1b, AR 10-15, Aug. 18, 1936, the Chief of Staff was the Commanding General of the Field Forces. See Pars. 201 and 202 of this paper.

119. Pars. 52-145 of this paper.

for the development of the Army and will insure the existence of a well-balanced and efficient military team. It is specifically charged with the duty of providing such broad basic policies and plans as will enable the Commanding Generals of the Army Ground Forces, the Army Air Forces, task forces, theaters of operations, overseas commands, and such other commands as may be established, and the heads of the administrative and technical services, to prepare and execute detailed programs. In addition, the General Staff assists the Chief of Staff by issuing in the name of the Secretary of War and the Chief of Staff, necessary directives to implement such plans and policies and supervises the execution of these directives. In performing its duties the General Staff follows the principle of decentralization to the fullest degree. No function will be performed at the general or special staff level of the War Department which can be decentralized to the major commands, the army areas, or the administrative and technical services without loss of adequate control of operations by the General and Special Staffs. The War Department General Staff will include six divisions, each under the immediate control of a director. Each director will plan, direct, and supervise the execution of operations within the confines of his sphere of action. In carrying out their duties, the Directors of the six General Staff Divisions will be guided by the following general principles:

"a. They will plan, direct, coordinate, and supervise. They will assist the Chief of Staff in getting things done, in addition to coordinating, planning and policy-making on an Army-wide level."

219. The definition goes on to emphasize decentralization and the avoidance of duplication. Next follow six paragraphs, each of which states in detail the duties of one of the Directors.

220. In this reorganization the officers who were formerly called Assistant Chiefs of Staff are renamed "Directors". That word means one who directs; 119.1 and it is twice expressly stated in the quotation just made that the Directors will direct. Elsewhere in the Circular,¹²⁰ it is said

119.1 By par 1c, Cir. 12, Dept of the Army, 28 Feb 1950, the title of "Director" was abolished and that of "Assistant Chief of Staff" restored. See also pars. 35-39, SR 10-5-1, 11 April 1950. The Army Organization Act of 1950 (Public Law 581, 81st Congress), in secs. 201, 203, and 204, uses the term "Assistant Chief of Staff."

120. Par. 2b(3) of Circular 138.

that the War Department General Staff "must also direct". This was again inconsistent with the basic principle that no staff officer may give orders or directions in his own name, except to members of the staff subordinate to him.

221. It is provided in paragraph 14 of Circular 138 that the Director of Service, Supply, and Procurement shall report to the Chief of Staff on matters pertaining to service and supply and shall act under the direction of the Under Secretary of War as to procurement and related matters. This continued the dual responsibility of the staff departments established at the instance of Mr. Crowell by section 5a of the National Defense Act, an arrangement unsound in principle for reasons already stated.¹²¹

121. See paras. 184-186 of this paper. The arrangement mentioned in the text has been set aside by sec. 10 of the Army Organization Act of 1950 (Public Law 581, 81st Congress), which gives the Secretary of the Army full supervisory power over all affairs of the Army Establishment and authorizes him to delegate those powers to the Under and Assistant Secretaries, and sec. 204 of the same act, which makes the Chief of Staff directly responsible to the Secretary of the Army and gives him supervision of all members and organizations of the Army.

B. ADMINISTRATIVE HISTORY

Operations of the Command Team of the President the Secretary of War, and the Chief of Staff, 1903 - 1947

223. There is not so much material available with respect to the operation of the above command team as there is concerning the operation of the earlier command team composed of the President, the Secretary of War, and the general of the army. Of the ten men who served as general of the army from 1828 to 1903, all but three wrote memoirs. There are also many biographies by others of the more important among them. Of the seventeen men who have served as Chief of Staff of the army from 1903 to 1947, only four (March, Pershing, Hugh L. Scott, and Eisenhower) have left memoirs; and of these the books by Pershing and Eisenhower cover their periods of field command only, and not their service as Chief of Staff. This leaves Hugh L. Scott and March as the only ones of the seventeen who have left an autobiographical record of their services as Chief of Staff. Biographies by other authors have been written of a few of the Chiefs of Staff only. No good general histories have been written of so recent a time.

Young to Bell, 1903-1910

224. Lieutenant-General Samuel B. M. Young, the last general of the army and the first Chief of Staff, served in those capacities only five months. No record has been found of any friction or difficulty during his brief service. He was succeeded January 9, 1904, by Lieutenant-General Adna R. Chaffee. Chaffee had been a field and not a staff soldier, and found duty as the head of the recently created General Staff Corps strange. He discovered that some in authority in the army who had opposed the creation of the General Staff were still opposing it. During his two years as Chief of Staff, he had to fight these officers. Brigadier General Fred C. Ainsworth, then Chief of Record and Pension Office, soon to become the Military Secretary, and later the Adjutant General, was one of these, and an open break between them took place.¹

224a. Major General John C. Bates was Chief of Staff from January 15 to April 13, 1906, less than three months. No record has been found of anything noteworthy during his brief term.

1. Maj. Gen. William H. Carter, *Life of Lt. Gen. Chaffee*, pp. 267-269; Herman Hagedorn, *Leonard Wood*, Vol. II, p. 97.

225. The next Chief of Staff was Major General J. Franklin Bell, who served four years, from April 14, 1906 to April 21, 1910. During the terms of these three officers as Chief of Staff, the Contest between the General Staff and the staff departments continued and increased in intensity.² The subject of the dispute was the boundary between the powers of the two contending parties. In this struggle, the leaders on either side were the Chief of Staff for the time being and Brigadier General (later Major General) Fred C. Ainsworth, successively Chief of the Record and Pension Office, Military Secretary,³ and the Adjutant General.

Leonard Wood, 1910-1914

226. Major General Leonard Wood, a man of unusual ability and force, was Chief of Staff from April 22, 1910, to April 20, 1914. He had been educated in medicine, had served first as contract surgeon and then as medical officer in the regular army. At the outbreak of the Spanish War he was appointed colonel of the 1st U.S. Volunteer Cavalry, better known as the Rough Riders, of which Theodore Roosevelt was lieutenant-colonel. Wood was made a brigadier general of volunteers during the Santiago campaign and later successively became governor of Santiago province, major general of Volunteers, governor general of Cuba, brigadier general and major general in the regular army. Most of his military service had been in the Medical Corps and in military government. It is therefore easy to understand the opposition to his appointment as a general officer in the regular army by many line officers, and, after his detail as Chief of Staff, their dislike of having him in that position. Nevertheless Wood had in fact a thorough knowledge of all branches of the military art.⁴ He was intensely

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2. It is said in Herman Hagedorn's biography of Leonard Wood (Vol. II, p. 97) that Ainsworth drove Bell into the hospital. Hagedorn is, however, a strong partisan of his subject; and, in this writer's opinion, not always just to Wood's opponents, of whom Ainsworth was one.
 3. The title of the Adjutant General was changed to Military Secretary April 23, 1904, and changed back March 4, 1907.
 4. A distinguished general officer, a graduate of the Military Academy, said in the writer's hearing, that, of the several chiefs of staff with whom he had been personally acquainted, Wood "knew his stuff" the best. As the above statement and that cited in the following note were made in private conversation, the writer thinks that it would be discourteous to the speakers to give their names in this paper; but he will be glad to communicate them orally to his superiors, if desired.

loyal to those under his command, but never wholly subordinate and loyal to his superiors.⁵ In consequence, at least one of Wood's superiors did not trust him.⁶ On the other hand, he seems to have gotten along well with some others, notably with Stimson, Secretary of War during the last half of Taft's term as President,⁷ and with March, Chief of Staff during most of World War I.⁸

227. But the greatest friction during Wood's tour as Chief of Staff arose between him and the Adjutant General, Major General Fred C. Ainsworth. Both were graduates in medicine who had entered the army as medical officers, and they had known each other since that time. Ainsworth invited Wood, reporting for duty at Washington as Chief of Staff, to stay at his house until Wood could move into his own quarters, and Wood did so.⁹ But the honeymoon did not last, and after a while the two men were not on speaking terms.¹⁰ The quarrel came to a head in a controversy arising out of the

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5. A gentleman, who, holding a high position, had close contact with General Wood for over a year, made the above statement to the writer. The first half of it is supported by the warm affection felt toward Wood by his aides and others who served under him (see Hagedorn, Leonard Wood, Vol. I, pp. 276, 398; Vol. II, pp. 119, 460, and elsewhere). The second part of the statement is supported by the opinion formed by President Wilson, Secretary of War Baker, and General Pershing that Wood was insubordinate, in consequence of which they refused to allow him to serve in France. For proof of the above statement as to President Wilson's opinion of Wood, see a letter of the President quoted in Peyton C. March, *The Nation at War*, p. 68, and Hagedorn, Leonard Wood, Vol. II, p. 295; and also see Frederick Palmer, *Newton D. Baker*, Vol. I, p. 163. As to Secretary Baker's opinion, see quotations from him in Palmer, *Newton D. Baker*, Vol. II, pp. 240, 244, and Hagedorn, Leonard Wood, pp. 286, 287. As to General Pershing's opinion of Wood, see Hagedorn, Leonard Wood, Vol. II, pp. 267, 286, and Palmer, *Newton D. Baker*, Vol. II, p. 239. Though Hagedorn is an ardent admirer of General Wood, his biography of that officer contains much material tending to support the opinion of the President, the Secretary, and the Commander in Chief of the American Expeditionary Forces. See, for example, Vol. II, pp. 103, 156, 167, 200. See also Frederick Palmer, *Bliss, Peacemaker*, p. 218.
 6. This statements is made on the authority of the gentleman mentioned in the preceding note.
 7. Hagedorn, Leonard Wood, Vol. II, pp. 101, 110, 112.
 8. Peyton C. March, *The Nation at War*, pp. 268, 269.
 9. Hagedorn, Leonard Wood, Vol. II, p. 95.
 10. Hagedorn, Leonard Wood, Vol. II, p. 108.

recommendation in a general staff study that the company muster roll be abolished and a descriptive list for each soldier be substituted for it. Upon this paper being referred to Ainsworth as Adjutant General for comment, after considerable delay and repeated reminders he submitted a memorandum on February 3, 1912, making strong arguments against the proposal and advising its rejection. If Ainsworth had done no more, he would have been subject to no blame; but he let his temper run away with him and abused the proponents of the plan in language warmer than is proper for an official communication. He called the proposal, "a mere subterfuge of a kind that would be scorned by honorable men"; and said that, "it is most inadvisable ever to intrust to incompetent amateurs the management of business that is of nation-wide importance". Worst of all, Ainsworth said that his statement was submitted "in the confident expectation that when other, if not wiser, counsels shall prevail, and after experience with the proposed plan or any similar plan shall have shown the inevitable evil effects thereof, the statement will receive the consideration that may not be given to it now". Such language was grossly improper, and Secretary Stimson prepared to have Ainsworth tried by general court-martial; but the latter, realizing that he had gone too far, requested retirement, was retired, and his trial never took place.

228. It would be a mistake, however, to regard the incident above described as merely a personal quarrel between Wood and Ainsworth. It was far more; it was a bringing to the light of the disagreement and friction constantly going on between two sets of men, both of whom were in general equally able and patriotic. The disagreement was as to the proper boundary between the duties of the organizations to which they respectively belonged, the General Staff and the Staff Departments.

229. Woodrow Wilson became President March 4, 1913. His first Secretary of War was Lindley M. Garrison. Wilson and Garrison retained General Leonard Wood as Chief of Staff until the expiration of his four year term; when Wood, who was still several years under the age for retirement, reverted to his position as a major general of the line.

Wotherspoon and H.L. Scott. 1914-1917

230. The next Chief of Staff, Major General William W. Wotherspoon, served as such only six months (April 21 - November 15, 1914). The first World War broke out in Europe during his term, and it might be supposed that that world-shaking event would have led the United States to re-examine its military situation, including the organization of its army; but the policy of William J. Bryan, President Wilson's first Secretary of State, was opposed to any step which might even remotely suggest our intention to take up arms, and nothing of importance to the present inquiry occurred during General Wotherspoon's brief term. Unlike Bryan, Secretary Garrison favored military preparedness, and a struggle ensued between them, each striving to bring the President to his way of thinking. Wilson's own natural bent was in favor of peaceful measures only. He envisioned, as did Bryan, the United States as maintaining strict neutrality, avoiding war and the threat of war, and finally acting as the arbiter who would persuade the warring nations to make peace.

231. Major General Hugh L. Scott, who had been Assistant Chief of Staff under General Wotherspoon, became Chief of Staff November 16, 1914. His personal relations with Secretary Garrison were most cordial.¹¹

232. Bryan resigned from the position of Secretary of State June 9, 1915, because the President's second note to Germany about the sinking of the Lusitania was stiffer than Bryan thought that it ought to have been; but that Wilson was not at that time converted to preparedness is shown by an incident related by Major General Tasker H. Bliss, Assistant Chief of Staff. At the date of the occurrence, early in the autumn of 1915, due to the temporary absence of their superiors, Henry S. Breckenridge, Assistant Secretary of War, was Acting Secretary, and Bliss was Acting Chief of Staff. Bliss said that one morning Breckinridge came to his (Bliss's) office and told him that he had just been at the White House.

"He" (Breckenridge) "found him" (Wilson) "holding a copy of the Baltimore Sun in his hand, 'trembling and white with passion.' The President pointed to a little paragraph of two lines in an out-of-the-way part of a sheet, evidently put in just to fill space. It read something like this: 'It is understood that the General Staff is preparing a plan in the event of war with Germany.'

"The President asked Mr. Breckenridge if he supposed that was true. Mr. Breckinridge said that he did not know. The President directed him to make an immediate investigation and, if it proved true, to relieve at once every officer of the General Staff and order him out of Washington. Mr. Breckenridge put the investigation up to me."¹²

233. General Bliss was equal to the occasion. His account goes on:

"I told him that the law creating the General Staff made it its duty 'to prepare plans for the national defense'; that I was President of the War College when the General Staff was organized in 1903; that from that time till then the College had studied over and over again plans for war with Germany, England, France, Italy, Japan, Mexico, etc. I said that if the President took the action threatened, it would only make patent to everybody what pretty much everybody already knew and would create a good political row, and, finally, it would be absurd.

"I think the President realized this in a cooler moment. Nothing further was said to him about the matter, nor did he again mention it."¹³

11. Sec. Garrison's letter of Feb. 13, 1916, written three days after his resignation, quoted in Hugh L. Scott, *Some Memoirs of a Soldier*, p. 548.

12. Frederick Palmer, *Newton D. Baker*, Vol. I, p. 40.

13. Same citation as in preceding note; also Frederick Palmer, *Bliss, Peacemaker*, p. 106.

234. A few months later, in his annual message to Congress of December 7, 1915,¹⁴ President Wilson showed himself so far a convert to preparedness as to advocate, pursuant to Secretary Garrison's recommendation, a moderate increase in the regular army and a "Continental Army", i.e., a national militia of 400,000 men not subject to state control, as is the National Guard, enlisted for three years, during which they would undergo short periods of training, and be subject to call during a second period of three years. It will be noted that this plan closely resembles "Universal Military Training", urged by President Truman upon the 80th and 81st Congresses; and also that the federalization of the National Guard, advocated by the board of which Mr. Gray, then The Assistant Secretary of War, was president, would result in a similar force.

235. The Continental Army scheme gained hardly a friend in Congress, partly because of the general trend in favor of "keeping us out of war", and partly for reasons stated in an editorial in The Nation. That paper admitted that there was much to be said for a wholly federal force if we could "make a clean sweep of American traditions, political conditions, and inherited prejudices. We doubt not they will prove too strong for other military theorists who start out by making a tabula rasa of our past."¹⁵ Secretary Garrison wanted the President to fight for the Continental Army; but Wilson answered that the chief thing was to get a trained reserve, that he was not committed to any one plan, and had an open mind. This was not enough for Garrison, and he resigned February 10, 1916.¹⁶ Assistant Secretary of War Breckinridge resigned at the same time in sympathy with his chief. This clash between the President on the one hand and the Secretary of War and the Assistant Secretary on the other seems to have arisen from an honest difference of opinion, rather than from any defect in the organization of the high command.

236. After General Scott had served as Secretary ad interim for nearly a month, President Wilson appointed Newton D. Baker Secretary of War on March 9, 1916. Baker was brought up in Shepherdstown, West Virginia, and moved first to Martinsburg, West Virginia, and then to Cleveland, Ohio, where he became city attorney and finally mayor. He was said to be a member

14. 53 Congressional Record 95.

15. The Nation, Feb. 17, 1916, Vol. 102, p.183, 184.

16. The correspondence leading up to Mr. Garrison's resignation is as follows:
Jan. 12, 1916, Garrison to Wilson; Jan. 17, 1916, Wilson to Garrison;
Feb. 9, 1916, Garrison to Wilson; Feb. 9, 1916, Wilson to Garrison;
Feb. 10, 1916, Letter of resignation, Garrison to Wilson. These letters are summarized in the Literary Digest for Feb. 19, 1916, Vol. 52, p. 425.

of three pacifist societies,¹⁷ and was without military training or experience; so that it is not surprising that the army regarded with apprehension his occupancy of the post of Secretary while a war was raging in which we might become involved. However, like Root, he more than compensated for his ignorance of things military by the possession of a keen and well trained mind, which he applied with industry to the problems presented to him.

237. During Scott's tour as Chief of Staff, both under Garrison and under Baker, the contest between the General Staff and the Staff Departments over the line separating their functions continued.¹⁸ That that is true and that Congress considered some action necessary to prevent encroachment of the one upon the other is shown by the limitations upon the numbers and activities of the General Staff Corps which it wrote into section 5 of the National Defense Act.¹⁹ These were so strict as to indicate congressional suspicion of or hostility to the General Staff Corps. Its number was limited to fifty-five, not more than half of whom might serve in the District of Columbia or vicinity. Neither the personnel of the War College nor other officers not members of the General Staff Corps should be attached to or employed in the office of the Chief of Staff. The duties of the General Staff were defined in detail affirmatively, and negatively by strict prohibitions of the performance of work of an administrative nature pertaining to the bureaus or offices of the War Department, or which would involve impairment of their responsibility or initiative.

238. A controversy arose as to the construction of the foregoing provisions. Major General Enoch H. Crowder, the Judge Advocate General, wrote a long and careful opinion, dated July 24, 1916, construing the act strictly.²⁰ Secretary Baker, who was himself a very able lawyer, took

17. Frederick Palmer, Newton D. Baker, Vol. I, p. 7.

18. H.L. Scott, Some Memories of a Soldier, p. 547.

19. 39 Stat. 167, quoted in part in par. 167 of this paper. See also par. 180.

20. The text of this opinion is attached as inclosure 2 to Tab III-A, p. 84 of the Appendix to the Staff Study of this division on the organization of the Department of the Army, 15 July 1948. It is printed at p. 165 of the Hearings on the National Defense before the Committee on Military Affairs of the House of Representatives, 69th Cong., 2d Sess., volume containing Historical Documents relating to the reorganization plans of the War Dept. and to the present National Defense Act. It is also printed in Maj. Gen. Otto L. Nelson, Jr., National Security and the General Staff, p. 188.

General Crowder's opinion home with him; and after nearly two months wrote one of his own,²¹ which overruled Crowder's. Baker, approaching the problem from the standpoint of history, noted that thirteen years before, upon the recommendation of Secretary Root, after long study of the subject, Congress had passed the Act of February 14, 1903, creating the Chief of Staff and the General Staff, and defining their duties carefully; and that it was not to be supposed that Congress, by a "glancing blow", i.e., a prohibition of the General Staff engaging in administrative duties, had intended radically to change the powers of the General Staff. He found the definition of the word "administrative" in section 5 of the National Defense Act itself,²² i.e., duties pertaining "to established bureaus or offices of the War Department, or that, being assumed or engaged in by members of the General Staff Corps, would involve impairment of the responsibility or initiative of such bureaus or offices, or would cause injurious or unnecessary duplication of or delay in the work thereof." Secretary Baker thus summarized his conclusions:

"Finding the intention of the act to be as here set forth, it is my opinion that the Chief of the General Staff is the primary advisor of the Secretary of War in all matters having to do with the Military Establishment; that in order properly to inform himself, the Chief of the General Staff must know of the proceedings in the various bureaus, departments, and offices; that, to as large an extent as possible, the action of these bureaus, departments, and offices should be regulated by large policies laid down by the Secretary of War, the carrying out of which would involve merely administrative activity; but that in order to make sure that these policies are not being departed from or ought not to be changed, in order properly to harmonize the relations of several bureaus, it is not only appropriate but necessary for the Chief of the General Staff to pursue, with as great detail as his judgment dictates, the execution of these policies through the several bureaus."

** * *

"The policy of the War Department, therefore, will remain as heretofore: The Chief of Staff, speaking in the name of the Secretary of War, will coordinate and supervise the various bureaus, offices, and departments of the War Department; he will advise the Secretary of War; he will inform himself in as great detail as in

21. Hugh L. Scott, *Some Memories of a Soldier*, pp. 546-547; Palmer, Newton D. Baker, Vol I, pp. 65-66; Nelson, *National Security and the General Staff*, pp. 197-198.

22. Quoted in part in par. 167 of this paper.

his judgment seems necessary to qualify him adequately to advise the Secretary of War."²³

239. Though the Secretary adopted a broad view of the powers of the Chief of Staff, it is noteworthy that he does not say that that officer commands the Army or any part of it.

240. The personal relations between Secretary Baker and General Scott appear to have been more than cordial. When he began his term as Secretary, Baker said to Scott, "General Scott, you know all about this. I know nothing. You must treat me as a father would his son."²⁴ This feeling appears to have continued. On his part, the soldier of more than thirty years service became almost lyrical about his Chief. Said Scott of Baker, "What a joy it was to work with a man having a mind and courage like that!"²⁵

241. As has been stated,²⁶ Mr. Baker is said, before taking office as Secretary, to have been a pacifist; and President Wilson was at first opposed to any form of preparedness for war, and was slowly and with difficulty brought to the contrary view. Of their conversion, and how well they worked with him after we entered the war, their first Chief of Staff, General Scott, has this to say:

"Secretary Baker had taken up the war portfolio as a pacifist some time before the war was declared, but he changed his mind after coming to the War Department, as he was great enough to announce in a public speech. When he did fall in with our plans, and had the full support of the President, they were invincible. No President or Secretary in all our history ever waged as great a war and waged it so directly and so quickly to a successful issue as they did, and history cannot avoid awarding them this credit."²⁷

242. Secretary Baker's father was a physician, who had served in his youth as a private in the Confederate Army. The son thus wrote of his father:

23. Opinion of the Secretary of War of Sep. 13, 1916, on the Effect of Sec. 5, National Defense Act, printed in the hearings cited in the third note preceding this, at pp. 172, 180, 181 and in General Nelson's book cited in that note, at pp. 198, 209.

24. Letter from Gen. Bliss, who was Assistant Chief of Staff and present when the words were uttered, to Frederick Palmer, quoted in Palmer's book, Newton D. Baker, Vol. I, p. 11.

25. H.L. Scott, Some Memories of a Soldier, p. 532.

26. In par. 236 of this paper.

27. H.L. Scott, Some Memories of a Soldier, p. 558.

"I think that the thing he more often said to me than anything else was that the reason the South seemed to prevail for so long from a military point of view was that President Davis let Lee alone, while Stanton and Lincoln constantly interfered with Federal commanders. Only once did President Davis give General Lee a military order, Father told me, and Lee's answer was to unbuckle his sword and hand it to Davis. Davis handed it back, tore up the order, and from that time on never interfered. So when I became Secretary of War the idea deep in my childhood recollection was that in military systems the military man is commander-in-chief and that civilian interference with commanders in the field is dangerous."²⁸

243. Dr. Baker took too favorable a view of Davis' conduct toward his generals, and too harsh a one of Lincoln's; but, whether or not the incident between Davis and Lee ever occurred, the story is important as showing Secretary Baker's idea of what should be the relation between a high civil official and his chief military advisor in time of war.

Tasker H. Bliss, 1917-1918

244. In May 1917, the Secretary of War sent General Scott to Russia as a member of a special mission headed by Elihu Root. During his absence, Major General Tasker H. Bliss was Acting Chief of Staff. On September 22, 1917, Scott reached the age of retirement, was relieved as Chief of Staff, and was succeeded by Bliss. Bliss had been President of the Army War College, an original member of the General Staff, Assistant Chief of Staff under Scott, and Acting Chief in his absence. Baker's biography says of Bliss:

"Baker had learned to turn to Bliss if he wanted a situation thoroughly and impartially analyzed, or a difficult task, which required broad vision, handled competently. He had been one of Root's counsellors in forming the General Staff and had held a wide range of important commands without ever having been drawn into a clique. He had the respect of the leaders of Congress and all the Secretaries of War under whom he had served."²⁹

245. Baker himself has written this of Bliss:

"Bliss had in a higher degree than anybody else with whom I have ever been in contact, the habit of deliberate and consecutive thinking. Nearly everybody else, including myself, thinks spasmodically and if a good idea occurs to me, I reach a good solution, but

28. Palmer, Newton D. Baker, Vol. I, p. 159.

29. Palmer, Newton D. Baker, Vol I, pp. 143, 144.

Bliss' mind was a comprehensive card index and his method of using it was like one of these machines they have in the Census Bureau where you feed in ten thousand cards with various data upon them and then read at the bottom of the machine the total number of cross-eyed persons in the ten thousand. He had what I like to call a brooding intelligence and nothing is more characteristic of my recollection of him than to see him sitting in his office or mine, looking out the window making up his mind. It was a slow, methodical, inclusive, and consecutive recollection of each material element to which there was automatically given the proper weight, and when he relaxed he had a result which he could state, almost categorically, and demonstrate to anybody who doubted by instantly marshaling all the questions and considerations on both sides.

"I do not know whether I have really conveyed a picture, but I have one in my own mind. When he had a problem to solve, he thought it out first from beginning to end. When he had reached his conclusion the statement of the conclusion was as convincing to an auditor as the demonstration of a proposition in Euclid!"³⁰

246. What was Bliss's feeling toward Baker? Bliss wrote that Baker was the wise chief whom he "loved more than any man on earth."³¹ Bliss was an excellent Chief of Staff, the relations between him and Secretary Baker were harmonious, and they made a most efficient team. The only pity was that Bliss's occupancy of the position was so brief.

Peyton C. March, 1918-1921
The First World War and its Aftermath

247. On September 10, 1917, Secretary Baker wrote General Pershing, saying that it was planned to relieve Bliss as Chief of Staff when he should reach retirement age, and that he wanted as Chief of Staff a young man who had had experience in France. He suggested Peyton C. March, and asked Pershing's recommendations.³² Pershing answered on November 13, 1917, recommending Major General John Biddle as his first choice, and March as his second.³³

30. Letter of Baker, quoted by Frederick Palmer in his book, *Bliss Peacemaker*, pp. 158, 159. For other highly favorable estimates of Bliss, see Palmer, *Newton D. Baker*, Vol. I, p. 414; Peyton C. March, *The Nation at War*, p. 299; and John J. Pershing, *My Experiences in the World War*, Vol. I, p. 331.

31. Palmer, *Bliss, Peacemaker*, p. 184. See also same book, p. 463.

32. Palmer, *Newton D. Baker*, Vol. I, p. 376; Pershing, *My Experiences in the World War*, Vol. I, p. 226.

33. Palmer, *Newton D. Baker*, Vol. I, p. 377; Pershing, *My Experiences in the World War*, Vol. I, p. 229.

Bliss left Washington in January 1918 for France to represent the United States on the Supreme War Council,³⁴ retaining for the time being his assignment as Chief of Staff; and Biddle was sent back to the United States and made Acting Chief of Staff.³⁵ Either Biddle did not want the job or did not satisfy Secretary Baker, as he was not made Chief of Staff; and on January 26, the Secretary cabled to General Pershing asking the return to the United States of March, who was then a Major General and Chief of Artillery of the American Expeditionary Forces in France.³⁶ Pershing complied, and General Biddle was sent to London to command all United States troops in the British Isles, and March began to function as Acting Chief of Staff, March 4, 1918.³⁷ May 25, 1918, Bliss was relieved and March was detailed as Chief of Staff,³⁸ and March served as such during the rest of the war and until June 30, 1921.

248. March was a man of tremendous industry. He worked until twelve or one at night, and was usually the first one present in the morning.³⁹ He required others to do the like, if necessary.⁴⁰ He was also a man of sound judgment. The sagacious Bernard Baruch, who so ably served his country in two World Wars, said that nine times out of ten March's decisions were right.⁴¹ March was also a man of decision and force.⁴² Secretary Baker wrote, "I find his judgment quick and sure."⁴³ March himself said:

"I decided orally the great mass of questions which were brought up on every variety of subject, the officer presenting the question making a record of the decision on the spot; and in every way saved every second possible in the handling of the enormous amount of work that was necessary in the conduct of such a war."⁴⁴

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34. Palmer, Newton D. Baker, Vol. I, p. 413.
 35. G.O. 4, War Dept., Jan. 9, 1918.
 36. March, The Nation at War, p. 36; Palmer, Newton D. Baker, Vol. II, p. 84.
 37. G.O. 23, War Dept., March 4, 1918.
 38. G.O. 52, War Dept., May 25, 1918.
 39. March, The Nation at War, p. 51; Palmer, Newton D. Baker, Vol. II, p. 157.
 40. March, book cited, p. 39.
 41. Statement to Frederick Palmer, quoted in the latter's book above cited, Vol. II, p. 204.
 42. Palmer, Newton D. Baker, Vol. II, pp. 203, 204, 330.
 43. Palmer, book cited, Vol. II, pp. 157, 158.
 44. March, book cited, pp. 51, 52.

249. But March had the defects of his qualities. He had none of the conventional amenities.⁴⁵ Baker wrote:

"I used to say to General March that he wasted a substantial part of my time, and he would ask how; and I would tell him that I had to go around with a cruse of oil and a bandage to fix up the wounds which he had made. These seemed unnecessary in the day's work, and if I could abandon the oil and bandage, I could probably devote more time to my own job; but he would go out and make more wounds."⁴⁶

250. Underneath his copy of a blunt cablegram to Pershing drawn by March, Baker wrote, "An excellent illustration of the way not to send a message."⁴⁷ But Baker was just enough to add: "March's manners were not always considerate, but he did get results."⁴⁸

251. March's own book furnishes evidence of the truth of Baker's statement about his manners. March wrote that Major General Henry T. Allen, commanding our Army of Occupation of the Rhineland after the first World War, "brazenly spoke"⁴⁹ about a certain confidential letter. Of certain Congressmen and Army officers of high rank, March wrote, "None of them know what they are talking about."⁵⁰ He charged that General Pershing made "preposterous demands"⁵¹ for the shipment of men to France. General March may have been right as to the substance of what he wrote in the passages just quoted, but he might have written it in less offensive language. March admits that he did not act "suaviter in modo"; but contends that he functioned "fortiter in re", and "got results."⁵²

252. The next question is, how did the command team work when it was composed of Wilson as President, Baker as Secretary of War, March as Chief of Staff, and Pershing as Commanding General, American Expeditionary Forces, France? First let us consider President Wilson. Was he competent as

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45. Palmer, book cited, Vol. II, p. 203.
 46. Lecture by Baker at Army War College, May 11, 1929, quoted by Palmer in book cited, Vol. II, p. 204.
 47. The word "not" is underscored in the original.
 48. Palmer, Newton D. Baker, Vol. II, pp. 209, 210.
 49. March, book previously cited, p. 109.
 50. Same, p. 111.
 51. March, book previously cited, p. 254.
 52. Same, p. 352.

Commander in Chief? What were his relations as such with his subordinates? It has already been shown⁵³ that, at an earlier period, after the outbreak of the first World War but before the United States became a belligerent, Wilson was so ignorant of the work of the Army that he became angry upon reading that the General Staff was preparing a plan for use in the event of war with Germany. But he did not even then insist upon the execution of his order that, in consequence of such action, every officer of the General Staff be sent away from Washington. Wilson's ambition was, not to lead the United States in a successful war, but to be the peacemaker of the world;⁵⁴ and he neither knew nor cared anything about military matters.⁵⁵ After the United States declared war, his attitude changed; but he had the good sense to leave military affairs to the Secretary of War and the military men. Secretary Baker laid before Wilson only questions involving a departure from established policy. It was Baker's habit to submit such matters in writing in the most compact form. The President would return these papers with notes of rarely more than three or four sentences each, and invariably these confirmed Baker's proposals or actions. The President placed entire confidence in the Secretary and left to him full control of the War Department.⁵⁶

253. President Wilson extended the same support to the Chief of Staff of the Army, General March.⁵⁷ March says that he was overruled only twice, as to expeditions to Siberia and to Murmansk, which were ordered contrary to March's advice that the war would be won or lost on the western front, and that forces ought not to be diverted to other theaters.⁵⁸ March says that President Wilson and Secretary Baker gave him "the most perfect support any man could desire"; and never sought military advice from any one but him, General Bliss, and General Pershing.⁵⁹ General March even went so far as to compare Wilson to "that other great war President, Abraham Lincoln".⁶⁰

53. See par. 232 of this paper.

54. Palmer, Newton D. Baker, Vol. I, p. 58.

55. Same, Vol. I, p. 372; March, The Nation at War, p. 361

56. Palmer's book cited, Vol. I, pp. 371, 372; March The Nation at War, pp. 158, 161, 261.

57. March's book, at pages cited in preceding note, and also pp. 359, 360, and 363.

58. March, book cited, p. 113.

59. Same, p. 161.

60. Same, p. 360.

254. Let us next turn to Secretary Baker. It has already been shown⁶¹ that he possessed President Wilson's confidence. How did he get along with his subordinates, of whom the two most important were March, Chief of Staff of the Army, and Persing, Commander in Chief of the American Expeditionary Forces, France? As has been stated,⁶² Baker was annoyed by March's harsh manner toward subordinates; but he realized March's great ability,⁶³ and gave him a free hand.⁶⁴ What the Secretary thought of March is shown by the two extracts which follow. The first is from the report of the Secretary of War for 1919:

"On the military side; I would be wanting were I to fail to refer to the broad imagination, the unremitting energy, the firmness of purpose with which the Chief of Staff, General March, has pressed forward the program. Without his strength and vision much that was done could not have been done either so soon or so well."

255. The second is the inscription which Baker wrote in a copy of Palmer's biography of him, which he presented to March:

"To General Peyton C. March, whose work in the War Department was of incalculable value both to his country and mankind, from his affectionate and admiring associate."⁶⁵

March's opinion of Baker is thus stated in March's book:

"Secretary Baker was a little man physically, but that was the only small thing about him. He united a remarkably alert mind with a mastery of the apt word, and a sense of fairness and justice I have never seen surpassed in anyone."

"I have served in Washington repeatedly in my long career in the Army, and have known personally ten Secretaries of War. I have studied the work of the War Department from its foundation, and have formed an estimate of the various heads of that great department. It is my

61. In par. 252 of this paper.

62. In pars. 249 and 250 of this paper.

63. Palmer, Newton D. Baker, Vol. II, pp. 157, 158.

64. Assistant Sec. of War Frederick Keppel, quoted by March, in book cited, at page 162.

65. March, book cited, p. 376.

considered opinion that Newton D. Baker is the greatest War Secretary this Nation has ever produced. In saying that, I do not exclude the forceful Stanton or the brilliant Root. No Secretary of War in our entire history ever faced such problems as confronted Secretary Baker; no Secretary ever solved his difficulties with more success. Secretaries of War who have followed him have found his state papers models of clearness, justice, and freedom from error. I have it from one of his successors that when various problems have confronted him, he has studied the opinions written by Secretary Baker in similar cases and has found those opinions unassailable. 'They were,' he said '100 percent right!.'

"This man has grown upon the country as his services and character are more clearly revealed. Many persons have furnished guesses as to the precise character and quality of that service, but I know. We were associated together for more than three years, working every day without regard to hours under a pressure of events which removed any possibility of hiding the true character of the individual."⁶⁶

256. There could be no higher praise.

257. What were the relations between Secretary Baker and General Pershing: General March mentions several occasions when Secretary Baker overruled Pershing:

a. Pershing asked for 100 United States divisions in France. On the basis of a General Staff study which concluded that 80 was the greatest number which could be supplied, Baker fixed that as the maximum.⁶⁷

b. Two men were tried by General Court Martial for sleeping on post in the front lines, convicted, and sentenced to death. General Pershing approved the sentences but was obliged by Article of War 48 to send the records of trial to the War Department for confirmation of or other action on the sentences by the President. Because there was no indication of disloyalty or conscious disregard of duty, and because they had been without sleep on previous nights, Secretary Baker recommended to the President that he pardon the accused and restore them to duty, which the President did. General Pershing then recommended that the Articles of War be amended

66. March, book cited, pp. 365, 373, and 376.

67. March, *The Nation at War*, pp. 251, 253, 263; Palmer, *Newton D. Baker*, Vol. II, pp. 346, 347. Palmer, Baker's biographer, says (Vol. II, p. 252), that Pershing asked for 110 divisions.

so as to permit the Commanding General in the field to take final action on such cases, but Secretary Baker and the President overruled him.⁶⁸

c. Pershing said that too many promotions were being made of officers serving in the United States, and intimated that all or nearly all should be made from those in the American Expeditionary Forces. Secretary Baker ruled that fairness to troops in the United States and the maintenance of their morale required that they be eligible for promotion also.⁶⁹

258. General March sums up the situation by saying that Baker supported Pershing when he deserved support, and turned him down when he did not.⁷⁰

259. What Baker thought of Pershing is shown by a letter from the former to the latter, dated September 10, 1917, in which it was said:

"Your course from the moment you landed in England has given both the President and me the greatest satisfaction and pleasure. As you know, you started with our full confidence, but we feel happy to have our judgment justified as it has been at every point by your discretion, tact, and effective activity."⁷¹

260. Pershing answered November 13, 1917:

"In conclusion, Mr. Secretary, permit me to congratulate you and the country in that we have you as a Secretary. You are doing a great work and doing it well."⁷²

261. If this were his only statement on the subject, Pershing's answer might be dismissed as a polite and meaningless response to the compliment which the Secretary had paid to him. But Pershing was under no compulsion to pay compliments unless he meant them, when, after his retirement, he was writing his memoirs. At that time, notwithstanding the disapproval of his recommendations by the Secretary to which General March alludes, General Pershing wrote:

68. March, *The Nation at War*, pp. 263, 264, G.C.M.O.'s 92 and 93, War Dept., May 10, 1918. Palmer, *Newton D. Baker*, Vol. II, pp. 283-291.

69. Palmer, *Newton D. Baker*, Vol. II, 208-211; March, *The Nation at War*, pp. 264-266.

70. March, book cited, p. 266.

71. John J. Pershing, *My Experiences in the World War*, Vol. I, p. 224.

72. Same, Vol. I, p. 230.

"I am grateful to President Wilson and Secretary Baker for having selected me to command our armies and for the whole-hearted and un-failing support they accorded me."⁷³

262. What were the relations between March, as Chief of Staff of the Army, and Pershing, as Commanding General of the American Expeditionary Forces? To the three occasions when Baker overruled Pershing may be added a fourth on which March did so, and in which it is not apparent that Baker acted personally.

d. On August 7, 1918, Pershing requested that eight cavalry regiments be sent him during that month and the next. This was denied by March for lack of vessels adapted to the transportation of horses.⁷⁴

263. In the early part of his book, dealing with the period when March was serving in Europe under Pershing's command, Pershing compliments him highly.⁷⁵ While so serving, presumably at Pershing's request or with his approval, March was promoted to major general and put in charge of all the artillery of the American Expeditionary Forces.⁷⁶ Pershing had recommended March as his second choice for Chief of Staff, next after Biddle, and had therefore been in large part responsible for March's selection for that position. Nevertheless, March's book contains many uncomplimentary remarks about Pershing. March's reference to Pershing's "preposterous demands" has already been mentioned.⁷⁷ March further said that Pershing "had about as few qualifications for diplomacy as any man I knew,"⁷⁸ spoke of his "inability to function in teamwork,"⁷⁹ and said that "he wanted a rubber stamp for Chief of Staff at home, so he could be entirely independent of any supervision or control,"⁸⁰ and that Pershing "showed clearly a marked fear of men whom he recognized as men of great ability".⁸¹

73. Same, Foreword, Vol. I, XV; to the same effect see same book, Vol. II, p. 319.

74. March, Nation at War, pp. 274-277; Palmer, Newton D. Baker, Vol. II, p. 338.

75. Vol. I, pp. 174 and 229.

76. March, The Nation at War, p. 34.

77. Same, p. 254. See par. 251 of this paper.

78. Same, p. 194.

79. Same, p. 266.

80. Same citation.

81. Same, p. 268.

263a. The foregoing quotations reinforce what was said by Secretary Baker as to March's harshness of manner and language.⁸² They also show that March came to hold a comparatively low opinion of Pershing's character and ability. Nevertheless, in justice to March, it should be said that, according to all the evidence, and not merely that coming from March himself, save in a few instances when he thought that he had good reasons for doing otherwise, March supported Pershing fully.

263b. As has been said, the early part of Pershing's book is complimentary to March. It makes no accusations against March by name, but further on it contains many complaints of shortages and delays in sending men and materials to France.⁸³ For example, General Pershing said:

"There is an impression here that our cablegrams are not being carefully studied and thoroughly coordinated. There seems to be energy enough behind things, but, perhaps, it is not as well directed by the Staff as it might be. It may possibly be due to faulty General Staff organization, which, as nearly as I can learn, has not yet reached that point of perfection which would enable all these matters to be handled systematically. In any event, there is not the satisfactory teamwork with us over here that should exist."⁸⁴

264. Further on in the same letter, General Pershing said with respect to the General Staff:

"There may be some of the personnel that is not entirely satisfactory."

"* * *

"I have at times doubted whether you will get it going smoothly without taking some one who has actually gone through this organization here from beginning to end, as you know this is the only general staff organization that our army has ever had. All this comes to my mind following the idea of an occasional change, of which you spoke when here as being your intention."⁸⁵

82. See par. 249 of this paper.

83. Vol. I, pp. 145, 146, 181-183, 198, 222; Vol. II, pp. 105, 130, 222, 308-310, and elsewhere.

84. Pershing, My Experiences in the World War, Vol. II, p. 223.

85. Pershing, My Experiences in the World War, Vol. II, p. 223.

265. This amounted to a guarded suggestion of the supersession of March as Chief of Staff of the Army by some officer chosen from the American Expeditionary Forces. General March so interpreted it, and says in his book⁸⁶ that he did not know about this letter until after the war, or there would have been a showdown.

266. The discussion of the relations between March as Chief of Staff and Pershing as Commanding General, American Expeditionary Forces, may be thus summarized: - In the beginning those relations were cordial. March developed some asperity toward Pershing, though in general he supported him loyally. Pershing apparently blamed March for failure to keep him fully supplied, and finally suggested to Secretary Baker that March be replaced by an officer from the American Expeditionary Forces. There was, however, no break between them, and they worked together with sufficient efficiency to bring the greatest war which had ever occurred up to that time to a successful termination in a little over eight months from March's assumption of the duties of Chief of Staff.

267. Turning aside from the personal relations of its members and looking at the problem in a broader way, let us inquire how the command team worked during the great test of the first World War. The contest for power between the General Staff and the staff departments continued, as it had since the creation of the General Staff in 1903. Indeed it was the successor of the earlier contest of 75 years duration between the General of the Army and the staff departments. The co-existence of the Purchase, Storage, and Traffic Division of the General Staff, other co-ordinating agencies, and the supply departments of the staff resulted in delay, duplication of effort, "layering", and inflated overhead.⁸⁷

268. Notwithstanding the foregoing defects and the complaints of General Pershing as to shortages of men and supplies, the command team of World War I worked better than that of the Civil War and infinitely better than that of the Spanish-American War. That team successfully moved across an ocean and maintained on its farther shore a force of 2,100,000 men; and against the opposition of well-led, well-supplied, and powerful enemies, that force with the aid of its allies successfully performed its mission within a year and a half from the time when its first detachment landed. From the standpoint of logistics no like task of such magnitude had before been accomplished in the history of the world. No military effort of our forces failed for lack of men, munitions, subsistence, or other supplies. Save in the rarest instances, no soldier of the American Expeditionary

86. Pp. 266, 267.

87. A Staff Study on Organization of the Department of the Army, Management Division, Office of the Comptroller of the Army, 15 July 1948 (off-set edition), pp. 6, 8.

Forces lacked food, clothing, shelter, arms, or ammunition, or medical care and hospitalization if he needed them. The training was excellent, the strategical leadership brilliant. The contrast with the confusion and breakdown in the far smaller effort of the Spanish-American War is striking. The improvement was mainly due to the existence of a General Staff, and in considerable part to the substitution of the Chief of Staff for the General of the Army.

Pershing to Craig, 1921-1939

269. For two reasons, it is impossible to write fully and frankly about the operation of the Command Team since the close of the first World War. The first reason is that there is little material available from which to write it. Few biographies, autobiographies, and histories of the time have yet been written. The second reason is that, since the period is so recent, and since many of the actors are living and much higher in rank than the present writer; it would be unseemly for him to write as frankly about their acts as he has done with respect to the events of long ago.

270. The act of September 3, 1919,⁸⁸ "revived" the office of "General of the Armies of the United States", and authorized the President to appoint to that office a general officer who had specially distinguished himself in the recent war. Congress intended that the President should appoint Pershing to that office, and he did so. Pershing was detailed as Chief of Staff of the Army by G.O. 22, War Department, June 3, 1921, effective July 1, 1921. During Pershing's tour as Chief of Staff the General Staff came to have a purpose somewhat different from that intended by Secretary Root. Root was seeking to establish a composite brain to assist him in discharging his total responsibilities to the President as Commander-in-Chief of the Army. Upon General Pershing's assumption of the position of Chief of Staff of the Army, the General Staff tended to become the Chief of Staff's composite brain to assist him in command of the mobile field forces. This is evidenced by three developments. In the first place, by the act of June 4, 1920, passed before Pershing became Chief of Staff, Congress, over the objection of Secretary Baker, split responsibility for staff work in the War Department by imposing upon the Assistant Secretary of War statutory responsibility for procurement and providing that the chiefs of branches should report directly to him as to it.⁸⁹ This gave the heads of the staff departments a channel to the Secretary which by-passed the Chief of Staff and the General Staff. Second, Pershing adopted the tactical staff organization borrowed from the French field forces, which had worked so well at General Headquarters, American

88. 41 Stat. 283.

89. Sec. 5a, National Defense Act, as amended by the act of June 4, 1920, Sec. 5; 41 Stat. 764. See pars. 184-186 of this paper.

Expeditionary Forces, France. Third, he revived the theory of Winfield Scott and Miles that the highest ranking line officer of the army, with this tactical general staff, would take personal command of the mobile forces in the field in the event of war. These changes have tended to make the General Staff, during Pershing's tour as Chief of Staff and since, something less than general, so far as the Secretary's responsibility to the President as Commander-in-Chief is concerned.

270a. On September 12, 1924, the day before General Pershing's retirement, Hon. John W. Weeks, the Secretary of War, said in a public address:-

"It seems fitting to remind you that practically the entire reorganization of our land defense forces under the act of 1920 has been directed by General Pershing . . . Our best means of paying tribute to General Pershing, of recognizing our debt to him, of honoring him, is to take up now the task which he is compelled to relinquish. He has organized a new army, an army of citizens. In future, as we have today, let us support his policy and continue to carry out his well-laid plans."⁹⁰

271. The next two Chiefs of Staff were Generals John L. Hines (1924-1926) and Charles P. Summerall (1926-1930). Next was General Douglas MacArthur (1930-1935), already known as a brilliant and forceful officer. That President Roosevelt considered his services satisfactory is shown by the fact that the President retained him as Chief of Staff for ten months after the expiration of the usual four-year term. The next was General Malin Craig (1935-1939), who was succeeded by General George C. Marshall.

272. Probably the greatest fault in planning during the period between the two World Wars was the failure to foresee that we might become engaged in a war on more than one front, and that in such case the scheme of having a single General Headquarters subordinate to the War Department would not work.⁹¹ For this and other reasons,⁹² the wisdom of having a Chief, Army Field Forces, as at present, is doubtful.

273. During the period between the two World Wars, the Air Corps (later called the Army Air Forces) was growing with great rapidity. The yearning of its officers for complete independence of the army made them restive of control by the General Staff and the Secretary of War, and resulted in friction on the level of the high command.⁹³

90. Avery D. Andrews, My Friend and Classmate, John J. Pershing, pp. 273, 274.

91. William Frye, Marshall, Citizen Soldier, p. 267.

92. See par. 206 of this paper.

93. Frye, book cited, pp. 252-255.

George C. Marshall, 1939-1945
The Second World War

274. General George C. Marshall was Chief of Staff from September 1, 1939, to November 19, 1945. Franklin D. Roosevelt was President from March 4, 1933, until his death on April 12, 1945, twelve years, most of which was in time of peace; but, as the three years and four months, during which he was Commander in Chief of our Army and Navy in war, were far more important in respect of the problem with which this paper deals than the eight years and nine months of peace, it will be more convenient to consider him as a member of the command team during the Second World War. That war differed from the first in three respects, which to a marked degree affected the high command.

275. In the first place, that was a war, not on a single front, as was the First World War, but on several fronts.

276. Secondly, in the First World War our navy did a tremendous job in transporting a large part of our army and its supplies to France, and in preventing enemy vessels from interfering with their transportation; but nevertheless that was mainly a war on land, and there were no fleet actions in which our navy was engaged, and no landings on a hostile shore or other joint operations of our army and navy. In the Second World War there were many such joint operations, in some of which the naval interest was primary. We then had, without statutory authority, a Chief of Staff to the President, the Joint Chiefs of Staff, and, in several theaters and operations, a unified command of the army and navy, none of which existed in the earlier war. The statement that there was no statutory authority for the foregoing does not mean that the things done were illegal. The President as Commander in Chief may, without statutory authority, detail any officer of the armed services to any duty of a military nature.⁹⁴ It was therefore entirely lawful for the President to detail Admiral Leahy to be his Chief of Staff, and to make the other orders and dispositions mentioned.

277. Thirdly, though we had allies in both wars, there was no unity of command of allied forces in World War I until the last few months of hostilities. In the Second World War, unity of command in a single theater among allies was the rule, and not the exception; and the Combined Chiefs of Staff, representing the high command of all the armed forces of the United States and Great Britain, were set up at Washington.

278. The differences above mentioned between the two World Wars profoundly affected the work of the command team of the army. Excluding from consideration for the time being officers of our allies and our own Navy, the U.S. Army command team during the Second World War, from the "day of infamy", December 7, 1941, until the death of President Roosevelt, April 12, 1945, consisted of Franklin D. Roosevelt as President and Commander in Chief, Henry L. Stimson as Secretary of War, and George C. Marshall as Chief of Staff. How did that team work?

94. Billings v. United States, 23 C. Cls. 166(1888).

279. First, let us consider President Roosevelt as Commander in Chief in war. He was not a good administrator. Secretary Stimson confided to his diary in March 1943:

"But the President is the poorest administrator I have ever worked under in respect to the orderly procedure and routine of his performance. He is not a good chooser of men and he does not know how to use them in co-ordination."⁹⁵

280. At times the President was too kind-hearted to get rid of a subordinate in whom he had lost confidence, or who would not carry out his policies. At times he failed to make prompt and definite decisions on questions of policy; and occasionally he committed the opposite fault of making a "snap" decision, without sufficient consultation with his advisors.⁹⁶ During hostilities, the President set up many new agencies whose chiefs reported directly to him and not to the head of any executive department, thereby creating a "fantastically complex administrative mechanism."⁹⁷ The jurisdictional boundaries between the business of these agencies and that of the War Department were so nebulous that a large part of Secretary Stimson's time and strength were taken up in trying to smooth out the differences created thereby.⁹⁸

282. On the other hand, President Roosevelt was a man of charm, ability, and force; and he had a firm understanding of the facts of war.⁹⁹ In an address at Commencement at Harvard University, June 11, 1942, Secretary Stimson spoke of the President's foresight and grasp of strategic factors, his courage and determination, and his leadership. In a letter to Mrs. Roosevelt four days after her husband's death, he said:

"He was an ideal war Commander in Chief. His vision of the broad problems of the strategy of the war was sound and accurate, and his relations to his military advisers and commanders were admirably correct. In the execution of their duties he gave them freedom, backed them up, and held them responsible. In all these particulars he seems to me to have been our greatest war President."¹⁰⁰

95. Henry L. Stimson and McGeorge Bundy, *On Active Service in Peace and War*, New York, Harper & Bros., 1948, p. 495.

96. Same, p. 414; see also Frye, Marshall, *Citizen-Soldier*, pp. 249-255.

97. Stimson and Bundy, book cited, p. 500.

98. Same, pp. 494-496, 555-561, 665; Frye, book cited, pp. 249-254.

99. Stimson and Bundy, book cited, p. 665.

100. Same, p. 667.

283. These might be discounted as compliments appropriate to a speech at Commencement at the President's alma mater and to a letter of condolence to the President's widow; but, when writing his diary, Mr. Stimson was under no compulsion to put down anything else than the naked truth as he saw it. After admitting that Mr. Roosevelt was not a good administrator Mr. Stimson went on to say in his diary:

"But his vision over the broad reaches of events during the crises of the war has always been vigorous and quick and clear and guided by a very strong faith in the future of our country and of freedom, democracy, and humanitarianism throughout the world. Furthermore, on matters of military grand strategy, he has nearly always been sound and he has followed substantially throughout with great fidelity the views of his military and naval advisers. In the Army on no important occasion has he ever intervened with personal or political desires in the appointment of commanders. He has always been guided in this respect by the views of the Staff and myself."

"On the whole he has been a superb war President - far more so than any other President of our history. His role has not at all been merely a negative one. He has pushed for decisions of sound strategy and carried them through against strong opposition . . ."101

284. In support of his last statement Mr. Stimson mentioned President Roosevelt's insistence on the invasion of Normandy from England, against the opposition of Mr. Churchill, who favored attacking from the Mediterranean.

285. The book "On Active Service in Peace and War", which has been cited and quoted, carries on the title page, as its authors, the names of Henry L. Stimson and McGeorge Bundy. As the introduction¹⁰² and final note¹⁰³ show, it was written in 1947 by Mr. Bundy, under Mr. Stimson's supervision and subject to his approval, in the "attempt to substitute a joint effort for the singlehanded autobiography he" (Mr. Stimson) "might have undertaken if he were a little younger". In that book it is said that Mr. Stimson "was wholly certain that the Army had never had a finer Commander in Chief".¹⁰⁴ It should be remembered that Mr. Stimson had been a lifelong Republican, an unsuccessful Republican candidate for governor of New York, and a member of the cabinet of two Republican presidents, one of whom was Mr. Roosevelt's defeated rival in 1933.

101. Stimson and Bundy, book cited, pp. 665, 666.

102. Same, p. xi.

103. Same, p. 673.

104. Same, p. 664.

286. Mr. Stimson's political background, as stated above, and his high character prevent any one from maintaining that he lacked objectivity and impartiality. His long and close contact with the President and their joint concern with the command of the army forbid any contention that Mr. Stimson was not acquainted with the facts upon which to base an opinion. His acknowledged ability and his long experience in public office exclude the possibility of argument that he was incompetent to evaluate those facts. His high estimate of Mr. Roosevelt as Commander in Chief must therefore be accepted.

287. Another man with an excellent opportunity to form an estimate of President Roosevelt as Commander in Chief was General Eisenhower, who became a member of the command team as to Africa and Europe. What he thought of the captain of the team is shown by his statement, as follows:

"With some of Mr. Roosevelt's political acts I could never possibly agree. But I knew him solely in his capacity as leader of a nation at war - and in that capacity he seemed to me to fulfill all that could possibly be expected of him."¹⁰⁵

288. The second member of the command team was Henry L. Stimson. To begin with, he had better experiential qualifications than any other Secretary of War for many years. He had served nine years in the National Guard, and later as a colonel of Field Artillery in the First World War, during which period he attended and graduated from the General Staff School at Langres, France. He had been a leading New York lawyer, United States attorney, Secretary of War on a previous occasion, Governor-General of the Philippine Islands, and Secretary of State. In addition and more important, he had ability, character, and vision. Marshall's biographer correctly says that, when Stimson became Secretary of War, "Intrigue and clash of purpose and intent disappeared from the (War) Department, and an almost perfect team of statesmen began to pull together."¹⁰⁶

289. The third member of the team was George C. Marshall, Chief of Staff. It requires no discernment to speak favorably of one who has already reached high position, nor is praise given at such a time always sincere. Let us therefore first consider what was said of Marshall earlier in his career. In 1916, when Johnson Hagood, afterwards Major General, was a lieutenant-colonel and Marshall was a captain, the former was required to submit an efficiency report upon the latter. When asked whether he would desire to have Marshall serve under him, Hagood answered:

105. Dwight D. Eisenhower, *Crusade in Europe*, pp. 409, 410.

106. Frye, book cited, p. 278.

"Yes, but I would prefer to serve under his command . . . In my judgment there are not five officers in the army as well qualified as he to command a division in the field.

". . . He should be made a brigadier general in the Regular Army, and every day this is postponed is a loss to the Army and the nation. (He is) the best officer in the Army below the grade of major, and there are not six better in any grade.

"I have known this officer many years by reputation, and served with him in the Philippine Islands during the Batangas Maneuvers. He is a military genius and one of those rare cases of wonderful military development during peace. He is of the proper age, has had the training and experience, and possesses the ability to command large bodies of troops in the field.

"The Army and the nation sorely need such men in the grade of general officers at this time, and if I had the power I would nominate him to fill the next vacancy in grade of brigadier general in the line of the Army notwithstanding the law limiting the selection to colonels."¹⁰⁷

290. Marshall was one of Pershing's aides during the First World War. This writer, who was stationed at General Headquarters, American Expeditionary Forces, France, at that time, was then told of a conversation, during which another officer said to Marshall, "George, it may be a long time before you get your first star, but it won't be long after that before you get your second." Marshall was then a major in permanent rank. What the officer meant was that the legal requirement of promotion by seniority up to the grade of colonel would prevent Marshall from becoming a general for many years; but, as promotion thereafter was by selection, he would later move up quickly. General Hagood's report, the remark just quoted, and General Pershing's selection of him as aide show that, even in those days, Marshall's outstanding ability was recognized. General Pershing called Marshall the finest officer of World War I.¹⁰⁸ General MacArthur, when Chief of Staff, called him one of the best, if not the best officer in the Army, and slated him for Chief of Infantry.¹⁰⁹ General Dawes, in charge of procurement in the American Expeditionary Forces, and later Vice-President, said that Marshall was the best officer in the Army.¹¹⁰

107. Frye, book cited, pp. 119, 120.

108. Same, p. 226.

109. Same.

110. Same.

291. Marshall's highest temporary rank in the First World War was colonel. Soon after that war, when he had reverted to his permanent rank of major, Major General Fox Conner, who had been G-3 of the American Expeditionary Forces said:

"We cannot escape another great war. When we go into that war it will be in company with allies. Systems of single command will have to be worked out. We must not accept the 'coordination' concept under which Foch was compelled to work. We must insist on individual and single responsibility - leaders will have to learn how to overcome nationalistic considerations in the conduct of campaigns. One man who can do it is Marshall - he is close to being a genius."¹¹¹

292. In 1937, two years before the term of General Craig as Chief of Staff was to expire, Mr. Woodring, the Secretary of War, said that Marshall would succeed him.¹¹² Louis A. Johnson, Assistant Secretary of War, recommended him successively to be Assistant Chief of Staff, War Plans Division, and Deputy Chief of Staff.¹¹³ General Craig, Chief of Staff, recommended Marshall to be his deputy.¹¹⁴ Major General Stanley D. Embick, Deputy Chief of Staff in 1938, recommended to Secretary Woodring that he make Marshall a brigadier general and bring him to Washington, with a view to his ultimately becoming Chief of Staff.¹¹⁵

293. When a vacancy had occurred in that position in 1935, General Pershing had recommended to the President the detail of Major General Hugh A. Drum for detail as Chief of Staff. Instead, the President appointed General Craig. When the end of the latter's term was approaching, though Drum was the senior line officer of the Army,¹¹⁶ had an excellent record, and was the obvious choice; Pershing did not renew his recommendation, but suggested Marshall.¹¹⁷

111. Eisenhower, *Crusade in Europe*, p. 18.

112. Frye, *Marshall, Citizen-Soldier*, p. 237.

113. Same, pp. 246, 248.

114. Same, p. 248.

115. Same, p. 247.

116. Except for one major general, who then had but two months to serve before reaching the age of compulsory retirement.

117. Book last cited, p. 246.

294. The foregoing summary shows that those in a position to know Marshall's character and ability before he became Chief of Staff were unanimously of the opinion that he was the outstanding soldier of the army of his time. That his performance of his duties as Chief of Staff confirmed this reputation is so well known as to make citation of authority unnecessary, but it may be permissible to quote members of the command team next below and above General Marshall. General Eisenhower, when he was Commanding General in Africa and later in Europe, was next below Marshall. He reported to Marshall for duty in the War Plans Division, General Staff, December 14, 1941, a week after the attack on Pearl Harbor. He remarks that, at the beginning of all prior wars, the government, including the War and Navy Departments, had been unprepared, and Washington in chaos. General Eisenhower continues:

"This time, however, the War Department had achieved a gratifying level of efficiency before the outbreak of war. So far as my own observations during the months I served there would justify a judgment, this was due to the vision and determination of one man, General Marshall. Naturally he had support. He was backed up by the President and by many of our ablest leaders in Congress and in key positions in the Administration. But it would have been easy for General Marshall, during 1940-41, to drift along with the current, to let things slide in anticipation of a normal end to a brilliant military career - for he had earned, throughout the professional Army, a reputation for brilliance. Instead he had for many months deliberately followed the hard way, determined that at whatever cost to himself or to anyone else the Army should be decently prepared for the conflict which he daily, almost hourly, expected.¹¹⁸

295. The member of the command team next above Marshall was Secretary Stimson. What was his opinion of General Marshall? Of the latter's leadership of the General Staff, Mr. Stimson's book says:

"In the General Staff officers came and went, but the atmosphere of that body remained an atmosphere inspired by George Marshall. The unity and harmony at the top remained unbroken, and it was a team of men whose single object was to win the war.¹¹⁹

296. At a small gathering of War Department officials on V-E day, Secretary Stimson thus addressed General Marshall:

"I want to acknowledge my great personal debt to you, sir, in common with the whole country. No one who is thinking of himself can rise to true heights. You have never thought of yourself. Seldom

118. Eisenhower, book cited, p. 16.

119. Stimson and Bundy, book cited, p. 409.

can a man put aside such a thing as being the commanding general of the greatest field army in our history. This decision was made by you for wholly unselfish reasons. But you have made your position as Chief of Staff a greater one. I have never seen a task of such magnitude performed by man.

"It is rare in late life to make new friends; at my age it is a slow process but there is no one for whom I have such deep respect and I think greater affection.

"I have seen a great many soldiers in my lifetime and you, sir, are the finest soldier I have ever known."¹²⁰

297. Again, the foregoing might be discounted as exuberance natural on V-E day. But, unless he meant his words, and felt himself under a duty to write or speak them, Secretary Stimson had no occasion to go out of his way to praise General Marshall just before leaving office himself. On September 18, 1945, three days before his resignation took effect, in a letter to President Truman Mr. Stimson wrote thus of General Marshall:

"His mind has guided the grand strategy of our campaigns . . . It was his mind and character that carried through the trans-Channel campaign against Germany . . . Similarly his views have controlled the Pacific campaign although there he has been most modest and careful in recognizing the role of the Navy. His views guided Mr. Roosevelt throughout.

"The construction of the American Army has been entirely the fruit of his initiative and supervision. Likewise its training. As a result we have had an army unparalleled in our history with a high command of supreme and uniform excellence . . . With this Army we have won a most difficult dual war with practically no serious setbacks and astonishingly 'according to plan.' The estimate of our forces required has been adequate and yet not excessive. For instance, Marshall estimated against the larger estimates of others * * * that eighty-nine American divisions would suffice. On the successful close of the war, all but two of these divisions had been committed to action in the field. His timetables of the successive operations have been accurate and the close of the war has been ultimately achieved far sooner than most of us had anticipated.

"Show me any war in history which has produced a general with such a surprisingly perfect record as his in this greatest and most difficult war of all history."¹²¹

120. Same, p. 664.

121. Stimson and Bundy, book cited, pp. 662, 663.

298. At a press conference the following day, Mr. Stimson said:

"General Marshall's leadership takes its authority directly from his great strength of character. I have never known a man who seemed so surely to breathe the democratic American spirit . . ."

"* * *

"He is likewise the most generous of men, keeping himself in the background so that his subordinates may receive all credit for duties well done.

"His courtesy and consideration for his associates, of whatever rank, are remarked by all who know him. His devotion to the nation he serves is a vital quality which infuses everything he does. During the course of a long lifetime, much of it spent in positions of public trust, I have had considerable experience with men in Government. General Marshall has given me a new gauge of what such service should be. The destiny of America at the most critical time of its national existence has been in the hands of a great and good citizen. Let no man forget it."¹²²

299. It would naturally be expected that a command team whose members thought so highly of each other as these quotations indicate would work well, and such was the fact.¹²³

300. One action by Mr. Stimson with reference to the high command deserves special mention. In 1942 it was proposed to make Gen. Marshall, not Chief of Staff, but Commanding General of the Army. The book by Messrs. Stimson and Bundy, already mentioned,¹²⁴ has this to say as to the above proposal:

"The title of Chief of Staff, borrowed by Root from Europe, was not lightly chosen; it was a deliberate statement of the fact that the highest military officer of the Army exercises his authority only by direction of the President. The name was designed by Root to implant a conception of military responsibility wholly different from that which had led 'Commanding Generals' after the Civil War to believe that they were independent of the ignorant whims of presidents and secretaries of war. To Stimson it seemed vital that this reform should not be jeopardized, even unintentionally, by any change in the title and function of the Chief of Staff in 1942, and he accordingly vetoed the Staff's proposal to vest the Chief of Staff with

122. Same, pp. 663, 664.

123. See the quotation in par. 288 of this paper.

124. A note to par. 279 and in par. 285 of this paper.

the title of Commander. In the case of a man like General Marshall, fully alive to his responsibility both to the Secretary of War and to the President, the matter was quite unimportant, and Stimson certainly intended no disparagement of that great officer. It was further obvious that in the course of his duties, the Chief of Staff must inevitably exercise many of the functions of a commander, and Stimson was the first to insist that his authority must be unconditionally recognized by every other officer in the Army. But this authority must be that of the President's representative - under the Constitution there could be only one Commander in Chief, and to recognize any lesser officer with such a title was either insubordination or flagrant misuse of language. The Army was an instrument of the President; there must be no repetition of the state of mind which had led General Sherman as 'Commanding General' in 1874, to move his headquarters away from the wickedness of Washington to St. Louis."¹²⁵

301. Accordingly Mr. Stimson vetoed the proposal to make General Marshall Commanding General of the Army, and he remained Chief of Staff.¹²⁶ The present writer is of the opinion that Secretary Stimson's action was wise, that to carry out the proposal would have been a backward step, and would have risked a repetition of the disharmony and malfunctioning of the high command which marked our military history from the days of Winfield Scott to those of Miles,¹²⁷ particularly if the army should be headed by an officer less modest and deferential to his superiors than Marshall.

302. It is also interesting and instructive to consider Mr. Stimson's ideas and practice as to his own powers in respect to matters of detail. It is axiomatic that a superior ought not to attempt to do the work of his subordinates. So experienced an administrator as Mr. Stimson would have agreed to the foregoing; but he expressly stated to General Somervell, Commanding General of the Army Service Forces, that he reserved to himself the right to "dip down" into the lower levels and interest himself keenly and directly in particular matters. Among the topics with respect to which Mr. Stimson "dipped down" were the development of radar and military intelligence, including particularly the breaking of enemy codes, liaison with the Office of Strategic Services, and exchange of military information with other branches of our government and with our allies.¹²⁸ Such "dipping down" is unquestionably lawful; and, provided it does not amount to the performance of the subordinate's work, is advantageous to the superior in making him acquainted with what is going on, and making his supervision and control over his subordinates real and effective.

125. Stimson and Bundy, book cited, pp. 459, 451.

126. Same, p. 450. See also William Frye, Marshall, Citizen-Soldier, p. 281.

127. See pars. 54-133 of this paper.

128. Stimson and Bundy, book cited, pp. 453-455.

303. It is to be concluded from the foregoing that, during the Second World War, the command team of the army worked with a high degree of efficiency, far better than in our nineteenth century wars, and even better than in the First World War. As compared with our wars of the nineteenth century, the reasons for the higher efficiency of the command team in World War II are the same as those already given¹²⁹ for the like superiority of the command team in World War I; namely, the existence of a General Staff and the substitution of the Chief of Staff for the General of the Army.

304. What were the reasons for the improvement in the work of the command team in the Second World War over the First? In part they were personal. Wilson, Baker, March, and Pershing were all men of great ability and force, little if any inferior in these respects to their successors in World War II. But Wilson knew nothing about the art of making war, cared little about it, and was primarily concerned with making peace. President F. D. Roosevelt had previously been Assistant Secretary of the Navy; and, as Mr. Stimson said,¹³⁰ his vision with respect to strategy was sound and accurate. Wilson was inclined to be opinionated and stubborn; and lacked the finesse, suavity, and charm of Roosevelt.

305. Both Baker and Stimson were men of keen mind and excellent lawyers; and both had executive ability, character, and vision. Stimson had higher experiential qualifications. Baker had been a pacifist, and never wore uniform for a day; whereas Stimson had had nine years in the National Guard and served in field grades throughout the First World War. Both had had extensive experience in public service; but, except for a year in his youth as private secretary to the Postmaster General, that of Baker had been as city solicitor and mayor of Cleveland, whereas Stimson's had included an earlier term as Secretary of War and one as Secretary of State. Both rendered services of such value to their country that it seems ungrateful to compare them; but, so far as there was any difference between them, those of Stimson were probably of higher quality.

306. In professional knowledge, judgment, administrative ability, and force, March and Pershing were in the same class as Marshall and Eisenhower; but the later pair surpassed the earlier in diplomacy, tact, and consideration for others.¹³¹ The possession or lack of these qualities makes a difference in the efficiency with which a man functions in a high office.

129. In par. 268 of this paper.

130. In the passages quoted in pars. 282 and 283 of this paper.

131. As to March's tactlessness, see pars. 249-251 of this paper. March's opinion as to Pershing's lack of diplomacy is quoted in par. 262, ante. The author's statement is in part based upon his own contacts with the four officers mentioned, and upon statements to him by others who had more such contacts than he.

307. In general, though both teams were composed of men of the highest character and ability, each of the members of the command team of World War II played his position somewhat better than the man who had occupied it in World War I.

308. However, there were reasons deeper than those arising from the characters and talents of the members of the teams, why the command team of the Second World War worked better than that of the First. One of these reasons was that the second team learned from the experience of the first. Looking backward, the members of the command team of the First World War could find no war in which many nations and large numbers of men were engaged in several theaters later than the Napoleonic conflicts. But it was one year less than a century from 1815 to 1914, from the defeat of Napoleon at Waterloo to the outbreak of the First World War. The participants in that war were not born until long after the earlier had ended, and its battles to them were merely history. Meanwhile, there had been so many changes in weapons that tactics had greatly changed. Furthermore, the numbers involved in the Napoleonic wars were far less than those in the First World War, troops were transported across no wider body of water than the English Channel or the Mediterranean Sea, and the expenditure of ammunition was far less. The conditions existing in the Napoleonic wars with respect to tactics and logistics were therefore so different from those of World War I, that the high command of the latter war could learn comparatively little from it.

309. How different was the situation of the members of the command team of World War II! All of them, all of the senior members of their staffs, and all the general and flag officers had taken part in World War I. All officers of high rank had studied at the service schools the strategy, tactics, and logistics of World War I, and could follow what had then been successfully done and avoid what had then failed. Except in the air, there had not been such great changes in weapons and equipment as to make the experience of the first World War irrelevant. It may therefore be concluded that one reason for the better working of the command team in the Second World War was that it had the experience of the First upon which to build.

310. But there was still another reason why the command team worked better in the Second World War than in the First. As has been shown earlier in this paper, the General Staff came into existence in 1903, against great opposition from within and without the Army. That opposition continued for many years; but, after the First World War, it dwindled away to almost nothing. The Army and the Public came to realize the necessity for, and the value of, the General Staff. The General Staff, on its part, became better organized internally, its officers were better trained and it did its job better in the Second World War, than in the First.

Dwight D. Eisenhower, 1945-1948
After the Second World War

311. Mr. Truman has been President since April 12, 1945. Mr. Stimson resigned from the office of Secretary of War on September 21, 1945, his 78th birthday; and was succeeded by Robert P. Patterson, who served until July 24, 1947, when Kenneth C. Royall took oath as the last Secretary of War, which position he occupied until September 18, 1947, when he became the first Secretary of the Army. After General Marshall's relief on November 18, 1945, General Eisenhower was Chief of Staff during the rest of the existence of the War Department. As the events of these periods are so recent and so well known, they will not be discussed here. The National Security Act took effect on September 19, 1947, This paper will close with that date.

C. CONCLUSION
The Team Worked Well

312. The time has now come to compare the working of the earlier command team of the President, the Secretary of War, and the General of the Army, which existed from 1828 to 1903, with the later command team of the President, the Secretary of War, and the Chief of Staff, which existed from 1903 to 1947. As has been shown, the later team on the whole worked well; certainly far better than the earlier one. It brought to successful conclusion the operations of our army in two world wars, operations of a magnitude and complexity never before known in history, against powerful enemies, well armed, well equipped, and well led. This is not to say that the later command team worked perfectly, for no organization operated by fallible human beings can do so. Such faults and shortcomings as were disclosed were in some cases due to the personalities and peculiarities of the men involved. Most of the friction which existed was not, as in the days of the general of the army, between the highest military officer and the two highest civil officers (President and Secretary of War); but between the Chief of Staff and one or another of the heads of the principal staff departments. It is also noteworthy that most of these difficulties arose in the early years of the existence of the General Staff, and have been infrequent since the first World War. Notwithstanding these difficulties, it is concluded (and this is the most important conclusion of this paper) that the history of the command of the army for over a century shows that the highest military member of the command team of the Army should be called and should be in fact a Chief of Staff, and not a Commanding General. Consistently with that provision of our Constitution which makes the President Commander in Chief, the senior officer of the Army can in truth and in fact be nothing more, whatever he may be called.

III. RECOMMENDATIONS

313. It is illogical and contrary to the meaning of the term to provide by law or regulation that a Chief of Staff command anybody except the members of the staff of which he is the chief. Such a provision is also contrary to the theory of the General Staff as formulated by Root and as construed by Stimson, each of whom refused to grant command of the Army to the Chief of Staff.¹ But the objection to conferring command upon the Chief of Staff goes deeper than a mere erroneous use of words or a departure from accepted theory. It has been shown² that under our constitution the President is Commander-in-Chief of the armed forces; and that, by whatever title he may be called, and whatever regulations or circulars may say, the ranking general of the line at the seat of government cannot in truth and in fact command the Army. He can make decisions or give orders only so far as the President or the Secretary expressly or tacitly authorizes him to do so. An officer who possesses only such powers, and no general in our army can constitutionally have more, is not a commanding officer, as that term is used in the army. He is in fact a military adviser to the President and the Secretary of War or of the Army and their Chief of Staff or executive officer for the command of the Army. He can not constitutionally be anything more. To say in his title or in a circular or regulation that he commands the army is untrue; and is likely to cause misunderstanding, friction, and trouble, as it did from Winfield Scott's time to that of Miles.³ Furthermore, to make the Chief of Staff a commander is, in fact, to deprive the Secretary of a staff. A General Staff designed to assist a tactical commander to direct military operations is necessarily a different organism from a staff designed to assist the Secretary in performing his mission as the head of the Army establishment.

314. It has happened in some Latin-American countries and elsewhere that a general, relying upon the obedience of the Army to him rather than to the President or other chief of state, has overthrown the government and made himself dictator. There is no evidence that, in the 174 years of our existence as a nation, any general in the United States Army ever intended, much less attempted, anything of the sort; and this writer has no fear that any of them ever will. Nevertheless, debates in Congress on unification and public discussion of that topic disclose the existence of such a fear in the minds of some people. The best way to dispel such fears and to make it impossible for such an event to happen is to make it clear to the public, to the Army, and to the highest ranking officer in it, that, however great may be the power which that officer exercises, it is not his own power, but that of the President, which he wields, that the President may at any moment

1. See pars. 151, 152, 154, and 300 of this paper.

2. See pars. 1-4 of this paper.

3. See pars. 135-144 of this paper.

limit or take away his power, and that no order of such officer is to be obeyed unless it is authorized by the President. This constitutes an additional reason for the recommendation below.

315. It is therefore recommended:

a. All statements in regulations or circulars now in force, providing that the Chief of Staff command any part of the Army other than the Army Staff, should be deleted.

316. The verb "direct" is substantially equivalent to "command". Pursuant to correct staff theory, no staff officer of his own authority directs or commands anybody, except other staff officers junior to himself. To call one of them a director permits the inference that the officer of his own authority issues directives or orders, and that he is in the chain of command, where no staff officer ought to be. It is therefore recommended:

b. The word "director", as a part of the title of certain officers of the army staff, should be changed to "assistant chief of staff" or other appropriate terms; and all regulations or circulars authorizing any officer of the army staff of his own authority to direct or issue directives to anybody except an immediate subordinate, should be changed.

317. The two preceding recommendations are not intended to deny that the President and the Secretary of the Army may, and undoubtedly will, delegate very broad powers to the Chief of Staff, the Vice, Deputy, and Assistant Chiefs of Staff. Indeed, the volume and complexity of army business are such that they could not do otherwise. It would be physically impossible for the Secretary personally to read and approve every order or directive which must issue from the Department of the Army. If the two foregoing recommendations be approved and implemented, the Chief of Staff, the Vice, Deputy, and Assistant Chiefs of Staff would, as they do now, issue various directives not specifically authorized by the Secretary. But they would do so "by order of the Secretary of the Army", pursuant to general authority expressly or tacitly delegated to them by the Secretary; and the Secretary, as the deputy and spokesman of the President, would have the right to require that such questions as he might specify be reserved for his personal decision, and to "dip down" and handle personally such matters as he pleased. With less power than this, the Secretary would not have real control over the Army, and the President would cease to be in fact its Commander-in-Chief; and it must never be forgotten that no regulation, circular, nor even an act of Congress, can deprive the President of his powers as such. Army officers should be the last persons to seek to limit or deny his full exercise of those powers.

318. In the interest of flexibility, it is desirable that the statutes specify the powers and duties of military personnel only in the most general terms, if at all; but this is not true with respect to regulations. In order to attain efficiency, and to prevent misunderstanding, friction, duplication of work, and clashes of authority, regulations or circulars

should describe the duties and powers of officers clearly and precisely. This is particularly true of the Chief of Staff and the General Staff, in order that the line may be distinctly drawn between their field of operation and that of the special, technical, and administrative staff. It is therefore recommended:

c. The powers, duties, and responsibilities of all concerned with the command of the Army should be set forth by regulation in clear and precise language. In particular, the powers, duties, and responsibilities of the Chief of Staff and the General Staff should be clearly and precisely defined.

319. The foregoing recommendation is believed to be valid, irrespective of the separate question of what should go into the definitions, which is covered in the following recommendations.

320. The definitions of the duties of the Chief of Staff and the General Staff in the statutes passed and regulations issued at the date of the creation of the General Staff and soon thereafter were clear, full, precise, and in accord with correct staff theory. They were drawn under the supervision of Elihu Root, Secretary of War, and the parts relating to the Chief of Staff and prescribing how the command of the Army should be exercised were written by him personally.^{3a} He was advised by Major General William H. Carter. Those two men possessed the ablest minds which have ever addressed themselves to the problem of army organization, and were the creators of our General Staff. Later definitions have often been too brief and general, and not always based on sound staff theory. It is therefore recommended:

d. All definitions of the rights, duties, and powers of the Chief of Staff and the General Staff now contained in regulations, circulars, or orders should be revised to accord in principle with the original definitions promulgated at the time of the creation of the General Staff or soon thereafter. These definitions should apply to the relations between the Chief of Staff, the Vice Chief of Staff, the Deputy Chiefs of Staff, the Assistant Chiefs of Staff and their offices, on the one hand, and the special, technical, and administrative staff, on the other, even if we should cease to have anything called a general staff.

320_a. As has been shown,⁴ section 5a of the National Defense Act, as amended, requires the supply departments of the army to report to the Secretary, the Under Secretary, or the Assistant Secretary of the Army as to procurement, thereby by-passing the Chief of Staff. Since those departments are subject to the supervision of the Chief of Staff as to other matters, such as requirements, storage, and distribution, this provision is bad as giving them two masters. It is also objectionable in

3a. See Par. 157 of this paper.

4. 41 Stat. 764, 765; 10 U.S. Code 1193. See Pars. 184-186 of this paper.

that it deprives the Chief of Staff of knowledge of the logistic situation which he needs for the proper performance of his duties, and limits, if it does not deny, his right to control important parts of the army staff.

321. It is therefore recommended:

e. The Chief of Staff should command the entire army staff. No member of it should be placed under the command or supervision of, or required to report to, any one who is not himself under the Chief of Staff.

322. As a particular application of recommendation "e," it is further recommended:

f. That provision of section 5a of the National Defense Act as amended,⁵ requiring the chiefs of branches to report directly to the Secretary of the Army, the Under Secretary, or the Assistant Secretary, as to matters of procurement, should be repealed.

323. In order to avoid any possible misunderstanding of the scope of effect of the two preceding recommendations, it is desirable to make certain disclaimers with respect to them. In the first place, it is not intended by them to deny or limit civilian control of the Army. The Chief of Staff will still report to and be, as to all his duties, under the orders of the Secretary of the Army, the Secretary of Defense, and the President, all of whom are civilians. The Chief of Staff will still at any moment be subject to be relieved as such by the President, or by the Secretary of Defense or the Secretary of the Army acting on behalf of the President.

324. If the Secretary of the Army elects to delegate to the Under Secretary or the Assistant Secretary that part of his authority over the Chief of Staff which relates to procurement, he may still do so; but the reports from the supply departments will come to the Secretary, the Under Secretary, or the Assistant Secretary, through the Chief of Staff, and not direct. This need not prevent personal conferences on matters of official business between the Secretary, the Under Secretary, or the Assistant Secretary, and the head of one of the supply departments. The Secretary may now send for and personally confer with any officer or civilian in his department, and will still be able to do so; but this is and should be the exception and not the rule; and reports going up and directions coming down should pass through the Chief of Staff.

325. Neither would adoption of recommendations "e" and "f" preclude putting into effect the plan of having a separate branch of the staff charged with all procurement, or Mr. Crowell's idea that procurement should be done by civilians only, and not by military men.⁶ This paper

5. 10 U.S. Code 1193.

6. See par. 185 of this paper.

is solely concerned with command; and not with the internal organization of the staff, or whether its members shall all be military men or some of them civilians. All that recommendations "e" and "f" advocate is that all of the staff, and the personnel charged with procurement in particular, be under the orders of the Chief of Staff and report to him, or to the Secretary through him.

326. Until lately, the position of Chief of Staff, as a matter of law, was merely a particular duty to which a general officer was detailed by the President, or by the Secretary acting for the President, just as some other general might be detailed to command a territorial department or a division. For reasons not convincing to this writer, recent Chiefs of Staff were nominated to the Senate, confirmed by it, and appointed by the President. The considerations, which, as previously stated,⁷ make it desirable that the President should be relieved of the presence of a Chief of Staff in whom he lacks confidence, make it equally desirable that he should have a free hand in deciding who shall be Chief of Staff. If the Chief of Staff be made such by a mere military order detailing some general officer to that position, as was done until lately, the President has freedom of choice. If he must appoint the Chief of Staff subject to confirmation by the Senate, he is obliged to choose some officer whom the Senate will confirm. The objection is not merely theoretical, it may be practically important. Some high-ranking generals have been politically active. Jackson, Winfield Scott, Taylor, and Grant were all candidates for the presidency when they were generals on the active list of the Army. Wood received many votes for the nomination for President in the Republican convention of 1920 and MacArthur a few in that of 1948. If confirmation of a Chief of Staff by the Senate is necessary, a majority of that body might refuse it to a general known to have been active in the opposite party. Worse still, an adverse majority in the Senate, by refusing to confirm any one else, might try to force the President to appoint a political general of its party, or some other officer in whom he had no confidence. If the relations between the President and the majority in the Senate were again to reach such a state of exacerbation as they did during the term of President Andrew Johnson, Congress might try this method, as it then tried others, to deprive the President of the command of the Army which the Constitution gives him. Furthermore, it is questionable whether any restraint, even by the Senate and pursuant to an act of Congress, of the President's freedom of choice of his Chief of Staff, is not an unconstitutional limitation on his powers as Commander in Chief.

327. It is therefore recommended:

g. The position of Chief of Staff should be filled by detail, made as are other details, by the President as Commander in Chief, of his own free choice; and confirmation by the Senate should not be required.

7. See pars. 193 and 196 of this paper, also the recommendation in par. 327.

328. In paragraph 10 of regulations published at the time of the creation of the General Staff,⁸ and repeated in subsequent editions until 1921,⁹ it was said, with entire correctness, that the successful performance of the duties of the Chief of Staff requires absolute confidence and personal accord between him and the President and the Secretary of War. It was therefore directed that the detail of the Chief of Staff would cease upon the expiration of the term of the President and at any other time when the Chief of Staff could no longer sustain the relations described toward President and Secretary. This paragraph has been dropped from later editions of Army Regulations. It is recommended:

h. The last two sentences of par. 10 of the Regulations for the General Staff, issued February 14, 1903, which sentences were repeated in several subsequent editions of Army Regulations, and later omitted, and which related to the necessity for confidence and trust between the Chief of Staff and the President and the Secretary of War, and directed that the detail of the Chief of Staff should cease upon the expiration of the term of the President, and at any other time when that relation cannot be maintained, should be restored.

329. When there was a general of the army, it was contended on his behalf and that of the line, that the staff departments had become, not the servants but the masters of the line and of the general. Since there has been a Chief of Staff of the Army, the staff departments have complained that the General Staff, composed mainly of line officers on detail therein, is from time to time invading their province. There is some basis for the accusation. The belief that it was true led Congress in 1916 and again in 1920 to enact many limitations on the activities of the General Staff. The Staff Study prepared by the Management Division of the Office of the Comptroller of the Army, on the Organization of the Department of the Army, dated 15 July 1948, refers to "layering", duplication of work, and performance of operating functions by the General Staff.¹⁰ The officers of the staff corps are just as patriotic, loyal, and able as the officers of the line and the General Staff; and know much more about their specialities than the latter. What the officers of the General Staff may do, and all that they ought to do in this respect, is to lay down policies governing the work of the staff departments, and see that those policies are followed.

330. There is now on the statute book a paragraph of section 5 of the National Defense Act,¹¹ passed in 1916 and re-enacted in 1920, confining members of the General Staff to duties such as are specified in that act and the act of 1903 creating the General Staff, and forbidding them to engage in work which would involve impairment of the responsibility or initiative of the bureaus. Certain provisions of recent circulars might be unlawful as

8. Quoted in pars. 158 and 193 of this paper.

9. See pars. 193-196 of this paper.

10. Pp. 6, 8.

11. Quoted in par. 167 of this paper.

violating the above act, except for the powers to redistribute functions and duties conferred upon the President by the First War Powers Act.¹² The paragraph cited from section 5 of the National Defense Act is the twice declared policy of Congress. Even if, for the sake of flexibility, it is repealed, as is proposed in the pending Army Organization Bill,¹³ that paragraph declares a policy which is sound on its merits, and ought to be followed. It is therefore recommended:

i. All provisions of regulations, circulars, and orders inconsistent with the last paragraph of section 5 of the National Defense Act, forbidding members of the General Staff to engage in work other than that of the nature specified by law, or which involves impairment of the responsibility or initiate of the bureaus, should be rescinded; and that paragraph should be obeyed so long as there is a General Staff. If the General Staff shall be abolished, that paragraph should govern the relations between Chief of Staff, the Vice Chief of Staff, and the Deputy Chiefs of Staff, on the one hand, and the special, administrative, and technical staff on the other.

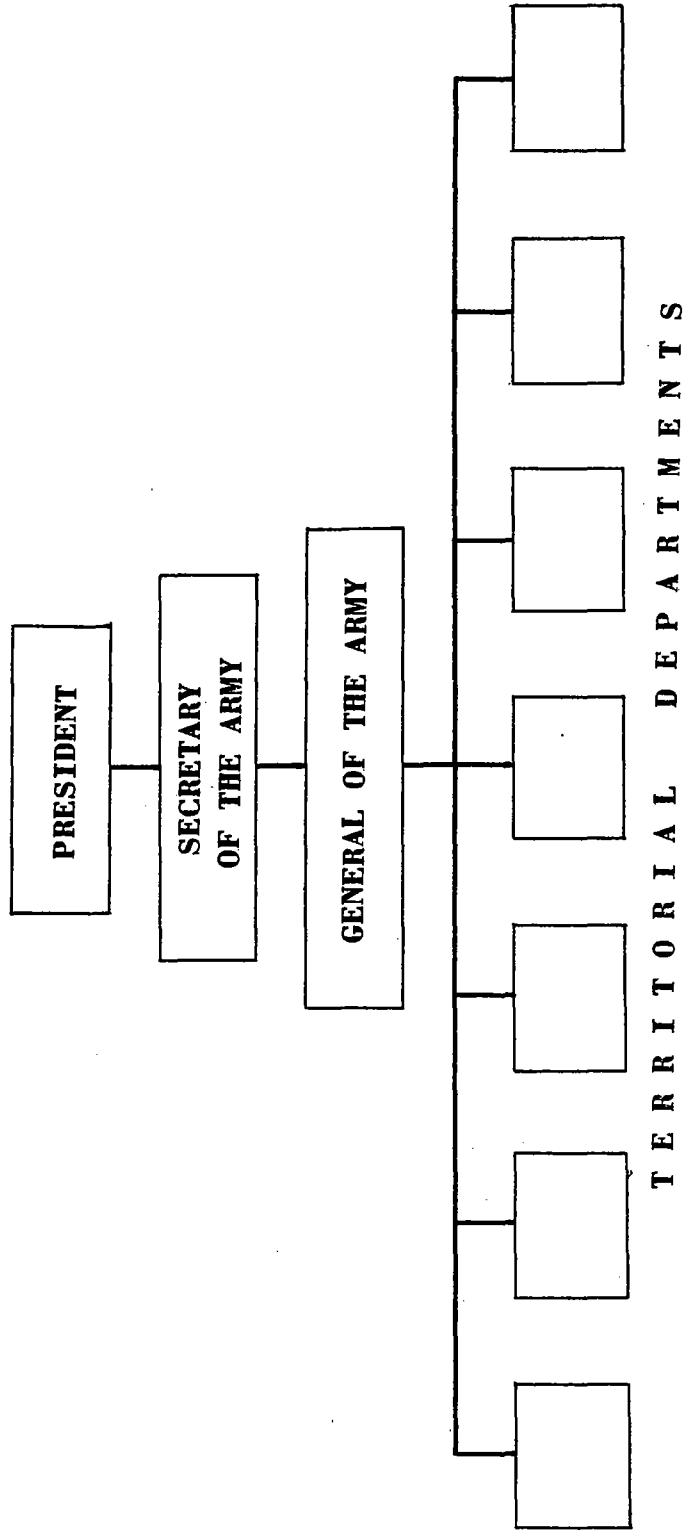
12. See par. 205 of this paper.

13. Sec. 401(a), S. 2334 and H.R. 5794.

CHART I

THE ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY

1828 - 1903
ACCORDING TO LAW
AS INTERPRETED BY ATTORNEY GENERAL CUSHING'S OPINION
7 OPS. ATTY. GEN. 453 (1855)



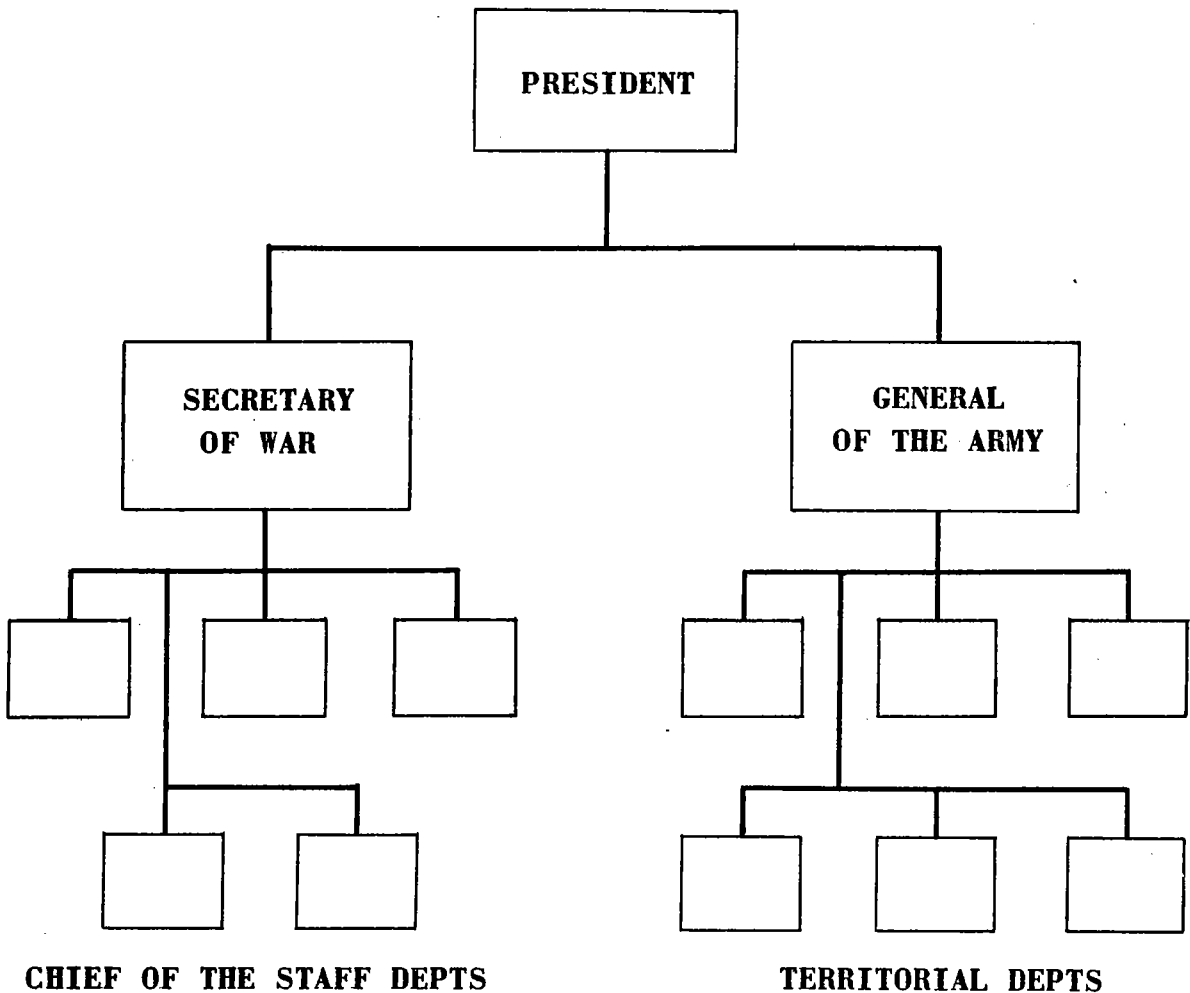
NOTE: For the organization of the War Department and the Army, as they in fact operated from 1828 to 1903, see Chart III, on page 139 of this paper.

CHART II

THE ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY

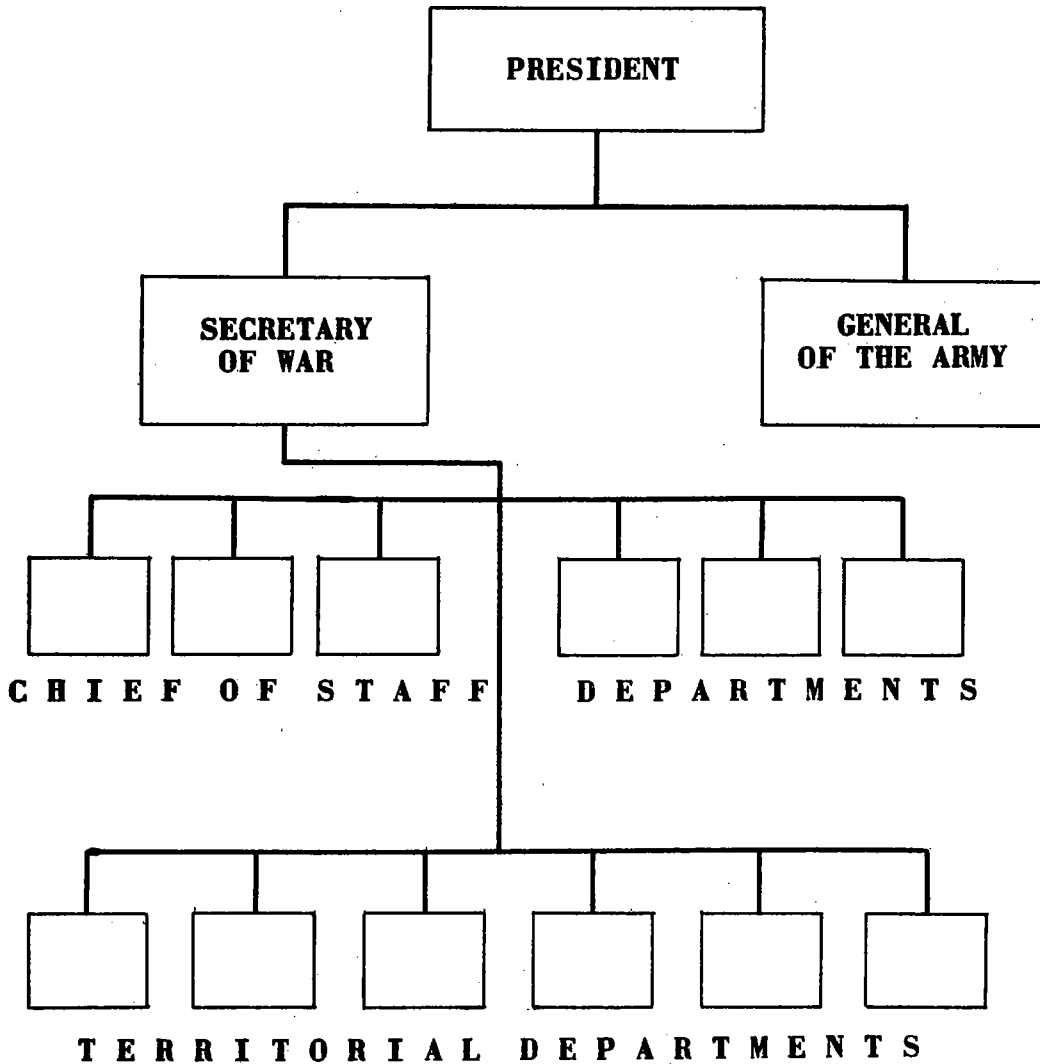
1828 - 1903

**ACCORDING TO THE VIEWS OF THE CHIEFS OF THE STAFF DEPARTMENTS
AND MANY OF THE GENERALS OF THE ARMY
AND ACCORDING TO PAR. 48 OF AR OF 1847, PAR. 125 OF
AR OF 1881, AND LATER ARMY REGULATIONS**



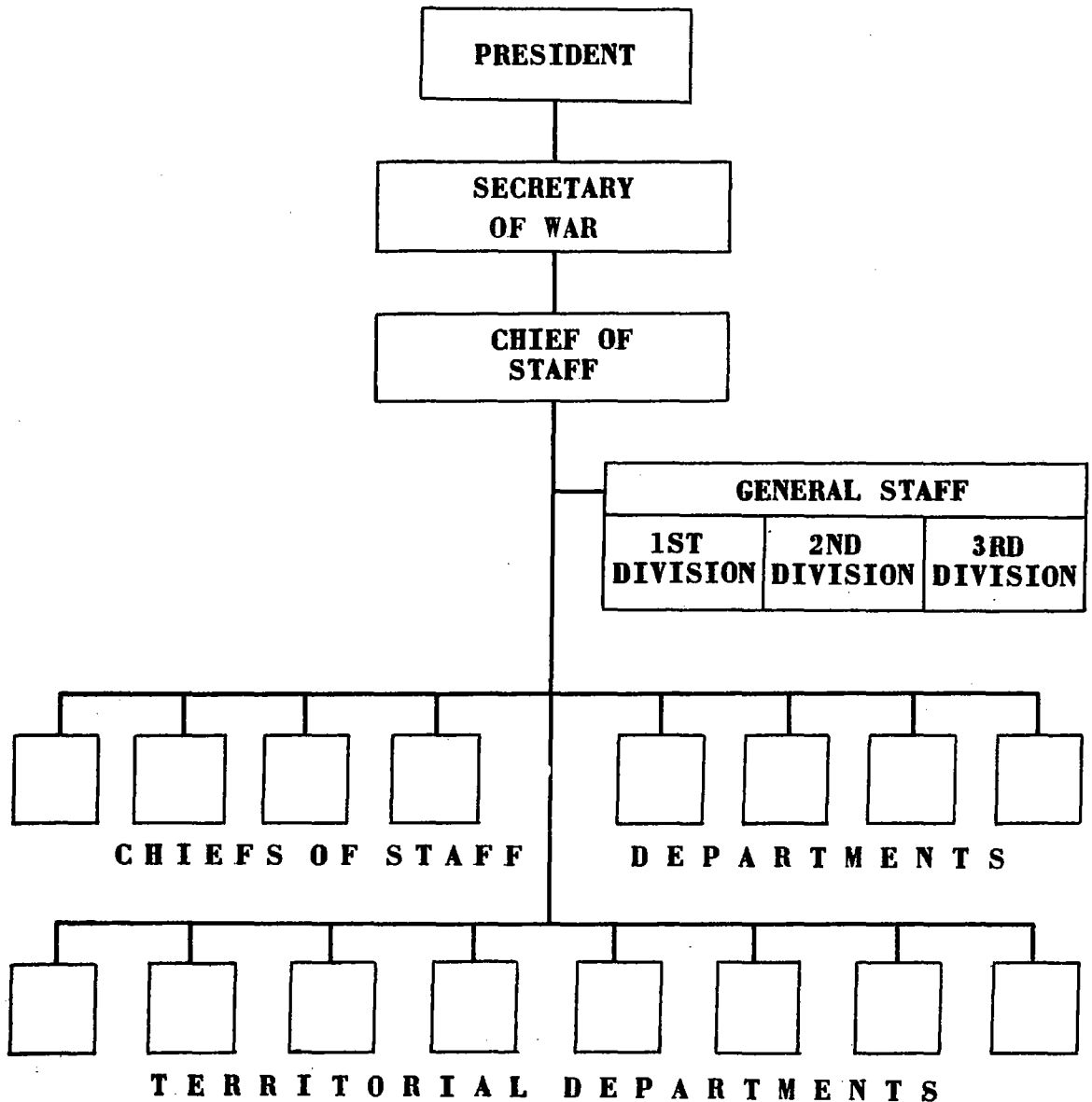
NOTE: For the organization for the same period according to law, see Chart I, page 137 of this paper. For the organization, as the War Department and the Army in fact operated, See Chart III, on page 65.

CHART III
THE ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY
1828 - 1903
AS THEY IN FACT OPERATED



NOTE: For the organization for the same period according to law, see Chart I, page 137 of this paper.

CHART IV
ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY
IN THE LATTER PART OF 1903
FOLLOWING THE CREATION OF THE GENERAL STAFF



NOTE: The matters assigned to each of the three divisions are listed in Appendix D to the Annual Report, of the Secretary of War for 1903; but their allocation does not seem to follow any logical plan.

CHART V

ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY
SET UP BY G.O.' s 14, 36, AND 80, WAR DEPARTMENT, 1918

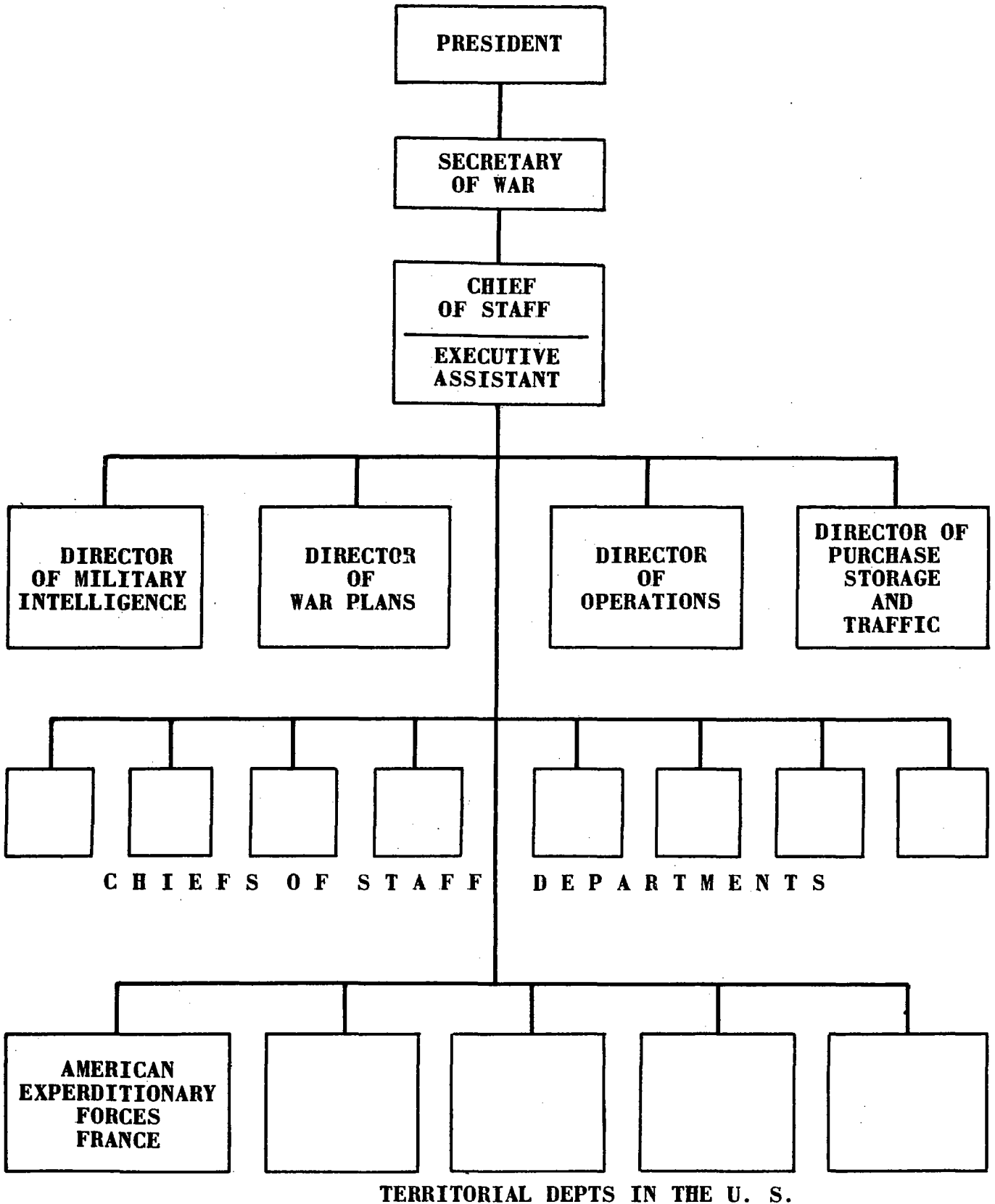
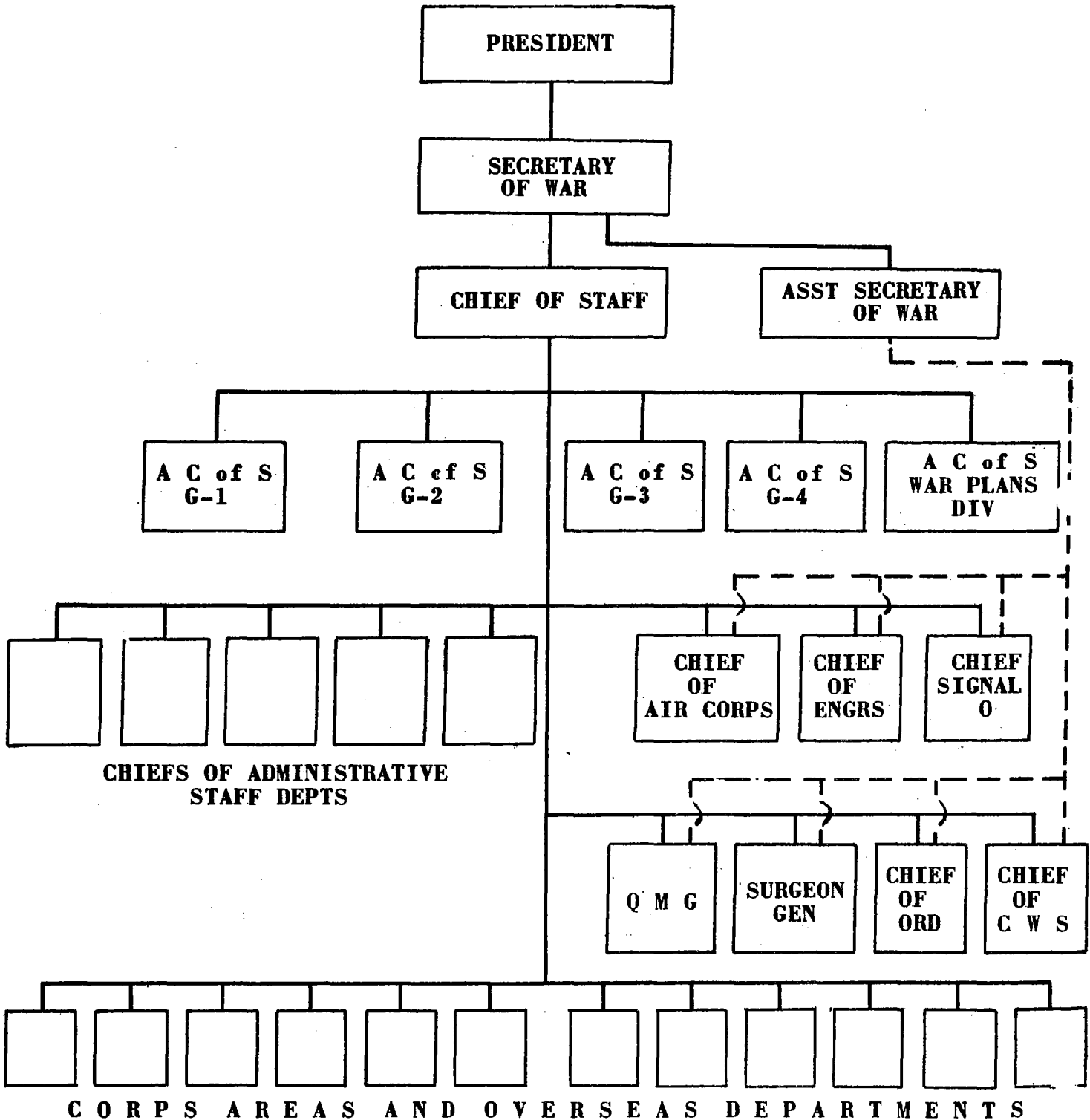


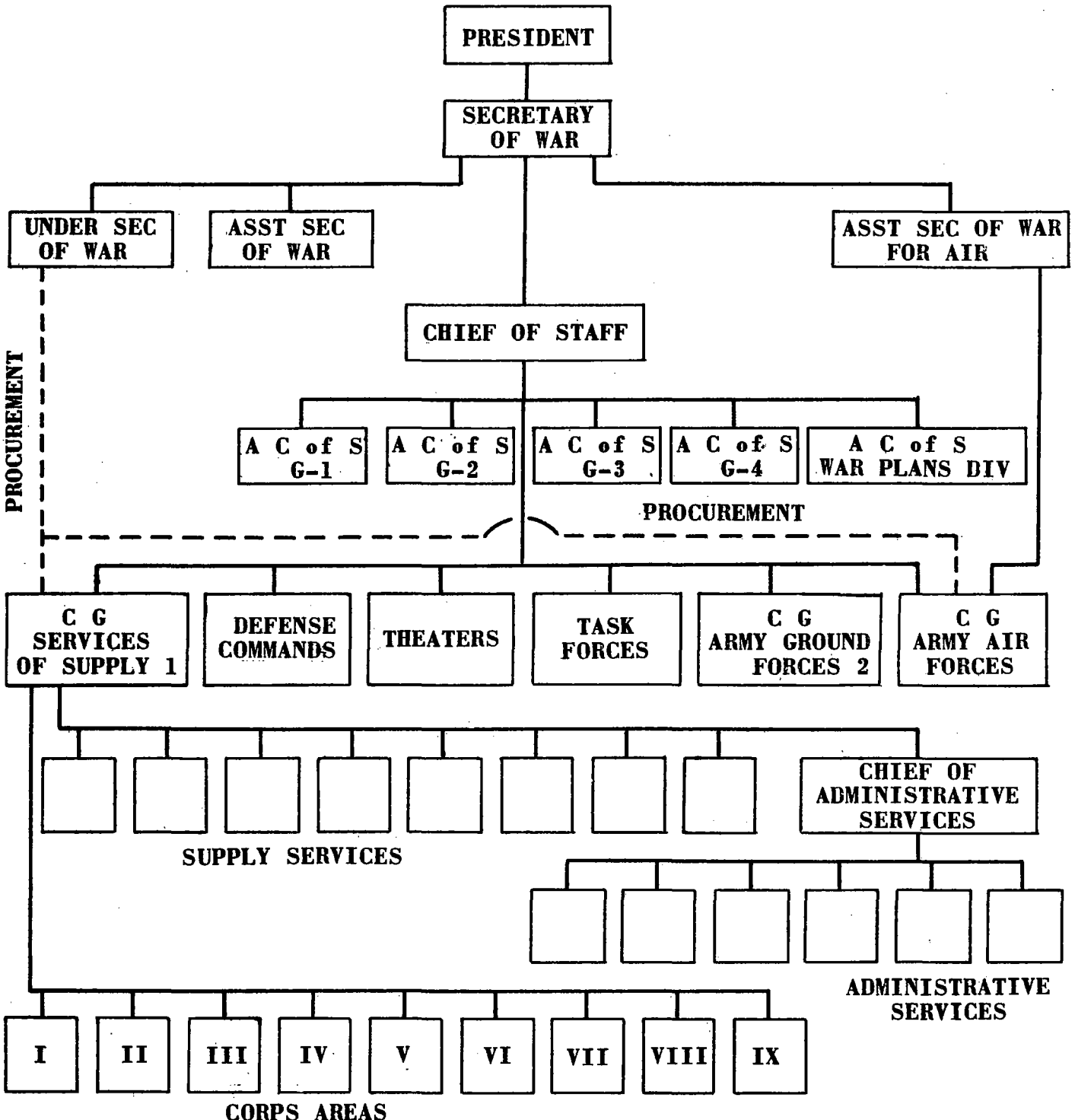
CHART VI

ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY
 PURSUANT TO SECTION 5a,
 ADDED TO THE NATIONAL DEFENSE ACT JUNE 5, 1920
 G.O. 41, WAR DEPARTMENT, AUGUST 16, 1921
 AND AR 10-15, NOVEMBER 25, 1921



LEGEND: — — Reports regarding all matters of procurement

CHART VII
ORGANIZATION OF THE WAR DEPARTMENT AND THE ARMY
1942
PURSUANT TO EXECUTIVE ORDER 9082, FEBRUARY 28, 1942
CIRCULAR 59, WAR DEPARTMENT, MARCH 2, 1942
AND AR 10-15, JULY 13, 1942



1 - Title later changed to Army Service Forces
 2 - Title later changed to Army Field Forces

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30 Stat. 274, 364, 995, 1045.

31 Stat. 655, 748.

32 Stat. 830, 831.

39 Stat. 166, 167, 168.

40 Stat. 1, 556.

41 Stat. 283, 763, 764, 765.

44 Stat. 784.

54 Stat. 1224.

55 Stat. 838.

61 Stat. 93, 495, 499, 501, 503.

62 Stat. 66, 67.

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