Honored Posthumously for Great Contributions to Field

Jack McNeill Receives First ABA Leibman Award

One of the highlights of the November 6-7 Seventh Annual Review of the Field conference (which will be covered in detail in a future special issue) was the award of the American Bar Association's Morris I. Leibman Award in Law and National Security, which was established earlier this year by the ABA Board of Governors to be awarded by the Standing Committee to recognize individuals who have made exemplary contributions in the law and national security field.

Nominations were solicited from a broad range of experts and practitioners in this field, including several thousand readers of this Report. A considerable number of worthy candidates were carefully considered by the Standing Committee before a winner was selected. If the response of the audience at the November sixth dinner is any guide, the Committee clearly made the right choice in honoring John H. ("Jack") McNeill with the first Leibman Award.

As regular readers of the Report—and virtually anyone who has worked in or followed the field of national security law in the federal government—are aware, Jack McNeill succumbed to cancer late last year after more than three decades of distinguished service to his country. For more than fifteen years he had served as the senior international lawyer in the office of the Department of Defense General Counsel, where he was Senior Deputy General Counsel for International and Intelligence.

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Weinberger Breakfast

Former Secretary of Defense Caspar Weinberger addressed the Standing Committee's September 18 breakfast. See story on page 2.

Stevens Reappointed Chair; Moore & Woolsey New Counselors

Bosley, Petersen, and Spaulding Named to Standing Committee

ABA President Jerome Shestack has named three new members to the Standing Committee, eleven to the Advisory Committee, and two new Counselors. In addition, Paul Schott Stevens—who recently accepted a position as Senior Vice President and General Counsel of Charles Schwab Company in San Francisco—has been appointed to a third term as chairman.

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Former Defense Secretary Weinberger Calls for NATO Expansion, Missile Defense

Former Secretary of Defense Caspar Weinberger addressed a Standing Committee breakfast on September 18 at the University Club. Excerpts from his remarks follow. —Ed.

I am honored to be invited to speak to this fine representative group of the American Bar Association. I am particularly pleased to have the opportunity to join in a meeting with Dick Friedman, a friend of many years standing, who is such a distinguished member of the Chicago Bar.

Today I want to challenge the views of those who counsel isolationism and withdrawal from the international scene as the right course for America. I don’t think it’s possible, and I certainly don’t think it’s right. It isn’t possible, because as all the people engaged in business and engaged in advising business know, in the coming years the successful American business is going to have to move out, get new associations, joint ventures, partnerships, new branches overseas. We’re going to have to “go global”—the old cliché—but we will have to do more than that, because we recognize that is essentially the only real place where there can be growth and expansion, and we will be competing with a great many other countries and companies in other countries trying to do exactly the same thing. So, from every economic point of view, it is I think clearly not possible to have this inward-looking, isolationist point of view, even though there is still an alarming number of people who seem to have that kind of approach.

On the other side, in addition to being not possible to take a course like that, is my view that it would be morally indefensible, completely wrong; because we do have, from every aspect, the need for a close working relationship with countries who share our general values. We can’t really exist in the world alone. And it was recognizing that fact that led to the very vigorous resistance by so many people during the Cold War to any suggestion of Soviet domination. We have very much the same kind of need and the same kind of agenda today even with the Soviet Union dead.

Our foreign policy agenda is really very modest. All we really want is to be able to maintain peace and freedom for ourselves and our allies. We don’t have any territorial ambition, we crave no more real estate or anything of that kind.

Former Defense Secretary Caspar Weinberger addresses the September 18 breakfast.

It sounds like a very modest agenda, but in this kind of world it is a very difficult agenda, and one that can clearly be realized only if we have friends and alliances, and work actively to maintain those friends and alliances, and recognize some of the potential threats to our realization of this very modest agenda.

What I thought I would do today, would be to proceed from the assumption that, as the world’s only superpower, it is essential for us to exercise the responsibilities that go with that, to realize it is a role that gives us enormous opportunities and tremendous challenges for things that can be done to improve the world and the quality of living for people in the world; and then look at some of the things we are doing and see if they actually are advancing us toward realizing the importance of these very vital parts of this modest agenda.

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Paul Schott Stevens
Chairman, Standing Committee on Law and National Security

Holly Stewart McMahon
Staff Director

Robert F. Turner
Editor

The National Security Law Report, which is published eight times a year, contains articles concerning the law relating to the security of the Nation and associated topics. The National Security Law Report is sponsored by the ABA Standing Committee on Law and National Security. The views expressed in this publication are not necessarily those of the Standing Committee or the American Bar Association. Comments or original articles should be directed to Professor Robert F. Turner, Center for National Security Law, University of Virginia School of Law, 580 Massie Road, Charlottesville, VA 22903-1789.

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BOOK REVIEW

Citizen Warriors
by Stephen M. Duncan
Pages: 308 Price: $24.95

Reviewed by Barry Pearson

This book is an in depth study of the personalities and political forces that changed America’s poorly trained and equipped National Guard and Reserve forces into the modern, cohesive fighting unit that proved so effective during the Gulf War. The author, a graduate of the U.S. Naval Academy, served aboard a combat ship off the coast of Vietnam in 1966 before transferring to the Naval Reserve where he remained as an active participant until assuming the post of Assistant Secretary of Defense for Reserve Affairs during the last months of the Reagan Administration. He remained as Assistant Secretary for five years, serving under two Presidents and three Secretaries of Defense.

In this role, Mr. Duncan was directly responsible for the modernization of Guard and reserve forces and more importantly, for their integration into the regular military forces during the Gulf War. As the reader will see, this was no small feat. Traditionally, regular military officers have thought “weekend warriors” to be inferior at best and completely unreliable at worst. Far from being an asset, many of our highest ranking professional soldiers and sailors argued before the Gulf War, that reservists were a liability and were not worth the time and expense involved in training them. To complicate matters, many members of Congress and the Governors of all fifty states had personal as well as political reasons for wanting Guard and reserve forces deployed as extensively as possible in the Gulf and applied pressure on the Department of Defense to do just that. The author was at the center of this political and military tug-of-war and his insider’s view of events at the Pentagon are particularly relevant.

Not one to shy away from controversy, the author offers his unfettered opinions on the political machinations that he observed at the Department of Defense, on the Hill and at the White House. Some of the more interesting anecdotes provided include an accounting of why the call-up of reserve medical personnel was altered due to a Congressman’s complaint of inadequate medical attention for himself at the Bethesda Naval Hospital and of General Schwarzkopf’s very vocal opposition to the use of reserve “round out” forces during the initial phases of the deployment. Along the way, the reader will also get an excellent explanation of the War Powers Resolution and how recent changes to the law have affected the President’s ability to conduct foreign and military affairs. More importantly, the reader will get a look at how national security policy and military strategy are actually created, and this is the true value of this book. It lays bare both the personal motives and the selfless sacrifices of the officers and officials who make up our national security establishment. The contributions of Dick Cheney and Colin Powell are well documented elsewhere; but in Citizen Warrior, we also get a look at the Senators, Members of Congress, and lesser known Assistant Secretaries, staff members, and military officers whose personalities and contributions are less well known. The huge impact of former Congressman Sonny Montgomery on reserve affairs is well known to those “in the loop” but is largely unknown to the American public, as is the efforts of those such as Dave Gribbin, whose work as Assistant Secretary of Defense for Legislative Affairs paved the way for an effective working relationship between the Department of Defense and Congress. The success in the Gulf was as much a result of their efforts as it was those of General Schwarzkopf and his deputies. Mr. Duncan explains how these individuals came together to form a team so effective that he quotes a French general as stating: “In no army in a democracy can fight a war again without fear of looking ridiculous unless it wins in a week or less using smart bombs and suffering almost no casualties.”

In part two of the book, the author discusses Guard and reserve forces in a much broader respect. Covering the history of the reserves from their creation to the present, the author provides an in depth analysis of the “Total Force” concept which is the heart of our current military warfighting strategy and which requires the use of the Guard and reserves to fill out the ranks of our ever shrinking active duty forces. The battles to tie the size of the reserves to the size of the active duty forces are detailed as is the recruiting and retention problems associated with maintaining an all volunteer force.

In this section also, the author offers his personal insights into the current administration’s expanded use of military forces for “operations other than war” and how this has affected military readiness. He notes that the Clinton Administration has stated that the military is not a social welfare agency while at the same time planning to have reservists “repair housing, restore the environment, build a pier for

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Book Review . . .

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fishing vessels in an economically depressed fishing community, dig wells, and survey the safety of dams, airport runways, and other parts of the domestic infrastructure." He even details a failed plan by an administration official to have reservists "defend America at home" by teaching reading skills in order to "combat" illiteracy.

In his conclusion, the author proposes that future decisions on the size and employment of reserve military forces be based on thirty-five principles which he lists in detail. Some of these are common sense and should be self-evident to anyone with even a passing interest in the subject, but others are not so obvious and are the result of the author's years of experience as both an active duty and reserve military officer as well as his experience at the highest levels of the Defense Department. An understanding of these principles will enable the reader to better appreciate the complexities involved in the employment of regular as well as reserve forces and is an excellent framework for current and future policy makers to follow in formulating military strategy.

Stephen Duncan's Citizen Warriors is in the end, a thorough analysis of the history and success of America's reserve military forces and is a fascinating snapshot into the people and events that combined to produce the victory we enjoyed in the Gulf War. But more importantly, it is a nuts and bolts look at how military strategy is created in America and it offers a thought provoking, experience-based program for the creation of future strategy. It is a must read for the serious student of government and foreign policy.

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There are going to be three or four issues that will be coming up in the fall. The two most important ones at the moment are the enlargement of NATO and the fast-track authority for trade negotiations. The latter because it is the mechanism that will, in my opinion, enable us to compete in the world and enable us to get the kind of free trade that I think is essential. I've been a free trader all of my life and I'm surprised to find that there are people who don't agree with this. I had felt in a very naive and unsophisticated way that all these matters were settled in 1847 when the Corn Laws were repealed in England, but apparently that was not the case. So I would hope that the President's request for fast-track authority will be granted. Because it seems to me that it's like a Congress trying to pass a tariff bill, or a California Legislature trying to pass a highway bill; if they are free to amend it, you get all kinds of strange additions and changes—plus some things, which to put it kindly, lack logic. So if you have a fast-track ability, as you all know, then the agreement is submitted to the Congress to be voted up or down, yes or no, and if they rejected it we'll have to conclude another agreement. But it will not be subject to amendments which would require it to be returned to all of the other signatories, and so on.

That is an endless process not to have the fast-track authority to face the ordinary amending power on the floor. It is a method of defeating the agreement, as everybody knows. So the people who are against the fast-track authority I think it is clear are people who basically don't want a free-trade agreement. In my mind, and here we get into some controversy I suspect, it is like an environmental impact statement, which takes years to prepare, is enormously expensive, can always be challenged, and is a method of stopping almost every kind of project. It doesn't do any good, in the sense that it doesn't change anything, but can only be used for blocking purposes, and that's essentially what a failure to give the fast-track authority I think would be in the trade area.

The other issue is that of NATO enlargement. Here again, I think it is essential that we agree to that. In my opinion, NATO is the most successful alliance in the world's history—a defensive alliance with no offensive goals or aims. Nothing is desired but to preserve the sovereignty, freedom, and independence of Europe and the United States and Canada. To keep that alliance strong, I think it is essential to expand it with the addition of countries that were under the thumb of the Warsaw Pact for such a long time and who want to change—who want to move towards the West. Basically I think it will bring strength to NATO.

It is curious to my mind how the fault lines of public opinion are falling out almost exactly the way they did fifty years ago, when the first debate about the North Atlantic Treaty Organization and alliance was before the American people. "It's too expensive." "It's going to drag our boys into conflict in distant lands over which we have little control and no interest." We heard those and similar arguments, and we are hearing them again today.

If it hadn't been for NATO, I don't think the Cold War would have been won, I don't think that Europe would be free and independent now, and I think we would be in substantial peril. I think when you have

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Bolton-Turner Debate

IS INTERNATIONAL LAW REALLY LAW?

by William E. Connor

On September 25, 1997, Professor Robert F. Turner, Associate Director of the Center for National Security Law at the University of Virginia, and John R. Bolton, Senior Vice President at the American Enterprise Institute, treated their audience to a lively debate over whether International Law is really Law. The debate, held at the Army and Navy Club, was hosted jointly by the Standing Committee and the Federalist Society and moderated by former State Department Legal Advisor Edwin D. Williamson—who chairs the International and National Security Law Working Group of the Federalist Society and recently joined the ABA Advisory Committee on Law and National Security after completing his third consecutive term on the Standing Committee.

Professor Turner argued that International Law is "law" as the term is commonly understood and defined, and is accepted as binding law by each of the sovereign States who make and are governed by the rules of International Law. Citing numerous historical examples, Professor Turner argued that in no instance where a State had violated International Law did that State contend that International Law was not binding and, hence, not true law.

Professor Turner also argued that the United States Constitution clearly establishes that international treaties are binding "law." With regard to enforcing International Law, Professor Turner pointed to a broad range of sanctions that effectively promote compliance with International Law, suggesting as well that such enforcement mechanisms have more to do with the question of whether law is effective than with whether it is really "law." Citing the famous United States Supreme Court case of Ex parte Merryman, in which Chief Justice Roger Taney conceded that the Court was powerless to enforce a writ of habeas corpus served on an Army general during the Civil War, Professor Turner posited whether unenforceable law is really law. According to Professor Turner, the real answer lies in recognizing that International Law is enforced through a wide range of effective sanctions. As a result of various enforcement mechanisms he outlined, Professor Turner contended that International Law truly works.

Although acknowledging that a strict adherence to International Law will not solve all of the world's problems, Professor Turner argued that International Law nevertheless plays an essential role and its degradation would undermine States' attempts to affirm important rights and values, as well as combat international aggression, terrorism, or the use of chemical and biological weapons.

Mr. Bolton represented the view that International Law is only a series of political arrangements with which governments comply when it suits their interests and disregard whenever such arrangements are contrary to the governments' interests. Mr. Bolton defined "law" as a system of rules and obligations that regulate relations among persons through the legitimate coercive power of the State. Further, Mr. Bolton said that the sources of law must be identifiable and authoritative, mechanisms for interpreting and resolving conflicts must be agreed upon, sources of law enforcement, execution compliance must be effective, and procedures for declaring and changing law must exist.

However, International Law, according to Mr. Bolton, lacks all of these features because it is based upon, in his judgment, abstractions consisting of custom, State action and treaties (i.e., unenforceable contracts). International Law, Mr. Bolton argued, is politically and perhaps morally binding, but not truly legally binding. Essentially, International Law consists of political deals that stand or fall on their own merit Mr. Bolton asserted.

Nevertheless, the debate over whether International Law is really law is important in Mr. Bolton's view because it is a debate over the proper role of

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countries that have not had the advantage of the kind of freedom and democracy, human rights, and so on, that we have, and that want to change from the kind of system they have had, they should be enormously encouraged. I'm glad that the Administration is now supporting it. I fault them very much for having delayed for three-and one half years and tried to impose all kinds of humiliating conditions on people who had been under the thumb of the Warsaw Pact. All of that U.S. opposition was simply in the name of wanting to please Russia.

I think the people of Russia should be helped. I'm delighted that they have moved from the kind of government we had been dealing with, to something that is freer and more open. But I don't think they should be allowed to dictate our foreign policy. I think that Henry Kissinger summed it up so well, as he usually does, when he said that it is ironic that all during the Cold War nobody paid any attention to Soviet demands, but now that the Cold War has been won, Russian demands are paramount.

That, unfortunately, I am afraid is the case. As a result, we have delayed, we have risked losing the friendship of those countries who want to leave the Warsaw Pact and join NATO, and we've done it because of this desire to please Russia. Now, that is not possible, for one thing, and for another thing I don't think it is right.

A rather abysmal ignorance was displayed by the President, in an early part of this debate, when he said that he wouldn't want to add to NATO membership because it would provoke the Russians and it would only mean moving the boundary line a little further east. And then he made the most remarkable and unhappy statement of all, and he did this at Helsinki, where we made all kinds of concessions, which essentially weakened NATO very seriously, in order to try to bring these three countries in with Russian approval. Russian approval was not secured—they issued the same nasty statement the morning after as they did the day before—but at Helsinki the President said, in effect, that we have to understand that the Warsaw Pact and NATO are mirror images of each other. That, to my mind, was about as wrong as you should get. I had the privilege of attending over four NATO meetings a year for seven years, and I know that NATO decisions are arrived at by a very difficult process that required the unanimous approval vote by about 13 nations, whereas the Warsaw Pact required one vote. That was an organization dominated by fear, brutal repression, and tyranny all the time it was there; which is why many of the Warsaw Pact countries want so much to join NATO.

So I thought that was a bad start, and that the three year's delay with two more now to come under the procedure adopted—and all of weakening from within, virtually giving Russia a veto over NATO actions, making the new members second-class members of NATO, in the sense that NATO troops and weapons cannot be deployed on their soil, and things of that kind, that will get them into the alliance, which is a good thing, but with delays that weakened the alliance I think in unnecessary and risky ways. So that I think is a rather unfortunate aspect to our foreign policy at the moment. I think we should be doing it as we did with Spain a few years ago—we begged them to come into NATO. There wasn't any three-year delay, or any conditions, or anything of that kind. When they finally held a referendum in order to do so, everybody was delighted and they joined within an hour. That is the kind of reception that I would have given to the Czech Republic, Hungary, and Poland. I am not adverse at all to taking in the Baltic nations.

Again, out of Helsinki has come the assurance that there will be no new members added to NATO for many, many years if at all. That represents to my mind a failure to recognize the importance of NATO as a defensive alliance of the kind that is, and it fails to recognize the fact that there are factors of substantial instability in Russia that I think we have to recognize and take serious. Everybody wants Russia to succeed as a Democracy. It would be infinitely easier to have them as a Democracy, rather than the kind of government they had that we had to deal with for so many years. But I think that you have to realize just to start with that Russia has 25,000 nuclear warheads. They have a military seriously disaffected, with one of the lowest morale in the world—and understandable so. The troops haven't been paid for months, and they live in conditions that we wouldn't use for people sent to Alcatraz, and so you have all these kind of factors which have made the morale in the military very low now, and there are demagogues around in Russia who may take power.

Mr. Yeltsin frankly is not well. He is our man, and we support him of course, and he has done a lot of good, but he's not well, and I don't think will last very long, and he may not even run again. There are a lot of eager contenders, particularly people who want to go back to the good old days of Stalin and Lenin, and there are some certifiable lunatics like Zhirinovsky—who's goal is to take back Poland and Alaska.

He only got 23 percent of the vote, but we can't
ignore him completely. Of course, we have people over here also who get 23 percent of the vote and who are not all that stable. In any event, we need to have a recognition that while everybody wants Russia to succeed as a Democracy, there are opponents to that and it might not. And they still have very large weaponry and a disaffected military, and that’s a bad combination. So I think we have to realize that we need a strong defensive alliance such as NATO, with members all basically united and dedicated to the kind of values we share, and that NATO should be refurbished and not set aside or discouraged in an attempt to please Russia.

I will also make the point that the Administration has continually rejected any attempt to secure the kind of defense against nuclear missiles that I think is necessary in a world in which Russia has 25,000 nuclear warheads and China has over 400. The Administration has rather slavishly followed the basic idea that was in vogue in 1979 that we shouldn’t have any kind of strategic defense. We shouldn’t have any kind of defense against these missiles—the most horrible weapons that have ever been invented—and they say if you have a defense you are weakening your security; and the old ABM idea, the Anti-Ballistic Missile Treaty, must always be observed, and you are only completely safe if you’re totally vulnerable. And that is not a philosophy that either President Reagan, I, or many others, felt should be acceptable.

Nevertheless, it is a philosophy adopted by the Clinton Administration, given emphasis at Helsinki again. As part of the appeasement package for Russia, we promised that we would not have any kind of reliance on any effective strategic missile defense, or even theater missile defense. We agreed that we would not build anything that would be effective against anything that had a reentry speed of more than 5 kilometers, which is just another way of guaranteeing that it would be completely ineffective. That I think was a serious mistake in this kind of world, and I think we should proceed with strategic missile defense, and we should not feel that we can’t ever develop the kind of system that we can, with our capabilities, to protect our people and our allied countries.

There are other areas in which I could go on at very considerable length about the lack of support for the military and what it is doing to the morale of our own military, and mention things such as not funding research and development, which was the thing that gave us the weapons that permitted us to win the Cold War with minimal cost to ourselves, and the procurement moratorium which has been in effect now for over three years—all of these things which, along with our failure to support leaders of the countries that long to join us, demonstrate to the world that we no longer have the essential second aspect of strength. Strength consists essentially of capabilities and intentions. We should have a great many of the capabilities left. Our intentions are fuzzy. And when you signal weakness, or unwillingness to use your capabilities to maintain peace and freedom, then I think you’re inviting aggression. I think that has been demonstrated by lessons that go back at least to World War II, and many instances since and before that. If an aggressor feels that he’s not going to be punished and feels that there is no cost to what he is doing, then his aggression will continue, just as surely as it can be predicted. That is another way in which we are basically endangering our security in the future as we approach the next Millennium.

New Members . . .

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Joining the Standing Committee for three-year terms are U.S. Supreme Court Marshal Dale E. Bosley, former Air Force General Counsel Ann C. Petersen, and former Chief Counsel to the Senate Select Committee on Intelligence Suzanne E. Spaulding.

New members of the Advisory Committee are U.S. Naval Academy Political Science Professor Willie Curtis, Ole Miss Law Professor Robert N. Davis, former Army General Counsel William J. Haynes II, former State Department Legal Adviser Monroe Leigh, former Principal Deputy Under Secretary of Defense Lewis "Scooter" Libby, former Defense Department General Counsel Terrence O'Donnell, former NSA and CIA General Counsel Elizabeth Rindskopf, former FBI General Counsel Howard Shapiro, American University Professor (and Director of the Center for Transnational Organized Crime and Corruption) Dr. Louise Shelley, former National Security Council staff member Dr. Jessica Stern, and former State Department Legal Adviser Edwin D. Williamson.

 Newly appointed as Counselors to the Standing Committee are University of Virginia Law Professor John Norton Moore and former Director of Central Intelligence R. James Woolsey. Both Moore and Woolsey have been active with the Standing Committee since the 1970s.

Before becoming the ninth Marshal of the U.S. Supreme Court, Dale Bosley had a distinguished career as a Navy SEAL—rising to the rank of Captain and including combat service in South Vietnam.

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International Law Debate . . .

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nation States in the world today. In Mr. Bolton's view, the more International Law attains the mantle of "law," the less freedom individual States possess to exercise their national interests, which is often at odds with International Law. This is important in Mr. Bolton's view, because the one true remaining global power is the United States; and therefore, the United States potentially has the most to lose in granting International Law the status of true law. This is so, Mr. Bolton contended, because to agree with Professor Turner one must believe International Law is superior to both the Constitution and other U.S. laws.

Following the debaters' initial presentations, members of the audience had the opportunity to ask several questions. Asked whether the debate over whether International Law is considered law or not really matters, Professor Turner answered that it matters tremendously. Society should agree on what ought to be the norm with regard to the behavior of nations, he stated. International Law establishes the rule of law, rather than mere policy preferences, as the international norm, Professor Turner said. Mr. Bolton replied that attaching the rubric "law" to something which is fundamentally not law may provide comfort, but confuses international politics with true law and undercuts the United States' ability to operate in the real world of international politics and diplomacy.

Mr. Williamson asked the debaters who should decide when an important issue, such as property rights, rises to the level of International Law assuming a lack of unanimity on the issue. Professor Turner answered that such questions are routinely handled in U.S. courts and should, therefore, pose little difficulty to international tribunals and judges. Professor Turner cited numerous examples of international commerce and business that are regulated by International Law. Mr. Bolton replied that rules regarding international commerce and business are not law because there is no systematic way of identifying changes to or enforcing such rules.

Another questioner asked whether the United States could be bound by International Law which contravenes U.S. domestic law. Professor Turner replied that the United States, by virtue of its unique position as the world's lone superpower, must observe the fundamental norms of International Law for those norms to have effect. Mr. Bolton thought otherwise and responded that U.S. law must control International Law with regard to the United States.

Moderator and former State Department Legal Adviser Edwin Williamson introduces the debaters prior to the September 25 luncheon debate at the Army and Navy Club.

Standing Committee Chairman Paul Schott Stevens asked how should the United States act when its domestic laws, or those of another nation, are in conflict with International Law. Professor Turner replied that a nation always retains its right to disregard International Law, but at the risk of paying a price, such as sanctions. Mr. Bolton responded that the United States may violate International Law so long as it acts legally in accordance with its domestic laws.

During the rebuttal session, Mr. Bolton asserted that the characterizing International Law as political, customary and State practice does not afford countries a greater opportunity to violate their international obligations. Rather, in his view, such a characterization protects against the risk that International Law has substance when there is no law to support it. Professor Turner asserted that International Law is true law precisely because it is made by sovereign States agreeing on and enforcing what ought to be the international norm.

A former Navy intelligence officer, Mr. Connor is now in private law practice in Washington, DC. The two debaters subsequently took their arguments to the pages of the Wall Street Journal. See Mr. Bolton's op-ed (November 17, p.A27) and Prof. Turner's response (Letters to the Editor, December 1, p. A23.)

Calendar of Events

Jan. 15, 1998—Breakfast Meeting, University Club, 8:00 AM (Speaker: L. Britt Snider, Special Counsel to the Director of Central Intelligence)
Applicants Sought for 8th CNSL Summer Institute

The Center for National Security Law at the University of Virginia School of Law is seeking applicants to participate in the Eighth Annual National Security Law Summer Institute. This intensive two-week program is designed to prepare law and social science professors to teach national security law and to prepare government attorneys to practice in this area.

The eighth summer institute will take place in Charlottesville, Virginia, and Washington, DC, from May 31 to June 12, 1998. Among the many issues that will be addressed are aggression and defense, war powers, intelligence and counterintelligence, the proliferation of weapons of mass destruction, military operations and the First Amendment, foreign and domestic terrorism, national security and the environment, and recent work examining the correlation between international peace and democratic government.

The application process requires a letter of interest accompanied by a vitae or resume. The application deadline is March 2, 1998. Successful applicants will be notified by the end of March. For further information, contact the Center at (804) 924-4080, by fax at (804) 924-7362, or by e-mail at <cnsl@virginia.edu>.

New Members . . .

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and subsequent senior positions with a special boat unit and an underwater demolition team. He was Assistant Naval Attache in Phnom Penh at the time of the fall of Cambodia, and later served as a United Nations military observer in Israel, Lebanon, Egypt, and Jordan. A magna cum laude graduate of Princeton, he earned his JD (and a Masters degree in English Literature) from Georgetown University.

In addition to her service as Air Force General Counsel during the Bush Administration, Ann Petersen has for many years served as an Adjunct Professor at DePaul University College of Law in Chicago. Immediately prior to being appointed to the Standing Committee on Law and National Security, she served for two years on the ABA Standing Committee on World Order Under Law. She graduated with highest distinction from the University of Iowa and received her JD cum laude from the University of Michigan. In 1991 the University of Iowa Alumni Association honored her with its Distinguished Young Alumna Award.

Suzanne Spaulding received both her undergraduate and legal education from the University of Virginia, and after a period of private law practice served for three years as Senior Counsel and Legislative Director to Senator Arlen Specter. She then served for six years as an Assistant General Counsel at CIA before joining the staff of the Senate Select Committee on Intelligence, where she was Deputy Staff Director and General Counsel.

Standing Committee on Law and National Security

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McNeill Receives Award...

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A remarkably well-educated scholar—holding a JD from Villanova and both an LL.M. and Ph.D. in Political Science from the London School of Economics—Jack McNeill distinguished himself across a broad range of subject areas. A former Charles H. Stockton Professor of International Law at the U.S. Naval War College, he taught as well at the Paul H. Nitze School of Advanced International Studies at Johns Hopkins University and at Georgetown University Law Center.

In a special tribute to Jack published in the December 1996 issue of the Report, former Defense Department General Counsel Kathleen Buck described Jack McNeill as a "patriot... professor... student... lawyer... writer... arms control negotiator... Air Force officer... father, and husband." Reflecting a sentiment shared widely and across political boundaries throughout the national security law community, she concluded: "We trusted him to represent our country on the most important national security issues, and that trust was well-placed. He was our friend, our colleague, and an important member of the national security community, and we will miss him."

The first annual Leibman Award was presented by Standing Committee Chairman Paul Schott Stevens. It was graciously received on behalf of Jack and his family by his wife, Helen McNeill, whose eloquent and moving acceptance remarks are reprinted on page 11.

Paul Schott Stevens presents the first ABA Morris I Leibman Award in Law and National Security to Mrs. (Helen) McNeill during the November 6th conference dinner at the Cosmos Club. Paul, who was recently named to his third term as Standing Committee Chairman, worked closely with Jack McNeill while serving as the first Legal Adviser to the National Security Council.

Leibman Award Citation

The Morris I. Leibman Award in Law and National Security is made posthumously to John H. "Jack" McNeill for services set forth in the following citation:

Accomplished scholar, gifted teacher, distinguished practitioner, and admired colleague, John H. "Jack" McNeill rendered a career of exceptional service to the United States of America, as Deputy General Counsel of the Department of Defense and in other responsible positions with the Department of Defense and with the Arms Control and Disarmament Agency. As senior international legal counsel to the Department for almost fifteen years, Mr. McNeill was engaged day-to-day with the nation's most sensitive and challenging security law concerns. The inspiring example of Mr. McNeill's personal commitment and the impressive record of his professional accomplishment constitute an enduring legacy that will benefit and advance the field of law and national security affairs for years to come. His career reflects the highest credit upon himself and upon the American legal profession.
Helen McNeill’s Acceptance Remarks

Word that Jack McNeill would be the likely recipient spread through the national security law community in the days immediately prior to the dinner, and demand for tickets quickly became so great that many well-wishers had to be turned away because of space limitations. Because many of Jack’s friends and admirers were unable to obtain tickets to the dinner, we are pleased to reprint below the text of Helen McNeill’s acceptance remarks. Ed

Thank you for this award, which I accept on Jack’s behalf.

Jack was twenty-seven years old when he (first) got cancer. We had been married a year. It was the cure from that first cancer that finally killed him. Facing death at a relatively early age, as Jack did at twenty-seven, has a way of getting one’s attention; and Jack knew that his life had to count for something, and that every day had to be a part of that effort.

He knew first hand what the dangers and effects of nuclear radiation were, and it was something that he spent his life trying to prevent from happening to the world at large. National security requires international security.

He felt that public service was a high calling; and he brought everything he could muster in his life to that cause—his intelligence, his wisdom, his honor, his humor, and his humanity. Like Morris Leibman, Jack was good at seeing different sides of a question and bringing attention to how to solve problems, to common ground rather than differences.

Nearly 100 people from the Washington, DC, national security law community and other parts of the country filled the Cosmos Club dining room to capacity to honor Jack McNeill.

He almost never spoke about the bad times, he didn’t talk about his work, but he would glow when he received sincere praise. The honor of his peers was something that he didn’t seek, but valued above most things.

I have long owed much thanks to those of you—Kathleen Buck, Mike Matheson, Elizabeth Verville, Elizabeth Rindskopf, and others who wrote memorials or dedications to Jack, to General Rowney, Kathleen Buck, Walt Slocombe, Tom Graham, and Judy Miller who nominated him for this award, and to the staff from the Office of the General Counsel at the Pentagon and other dear friends who are here. For Jack, for our children, and for myself I thank you for this award, for the support you have given to us, and the honor which you have shown to him. He would be very pleased, and I am very proud to accept this in memory of Jack McNeill and Morris Leibman.
The National Security Agenda . . .

Critical Infrastructure Panel Warns of Computer Threats to Communications and Electrical Networks — In October the President’s Commission on Critical Infrastructure Protection, which was established following the Oklahoma City bombing, issued both classified and unclassified reports calling on the government to double expenditures to protect vulnerable systems from terrorist attack by computers. According to the Washington Post (Oct. 21), the report warned in one passage that “a skilled criminal could disable an electrical power station using the Internet just as effectively as an old-fashioned terrorist could using a satchel of dynamite. The difference would be that the high-tech intruder would be harder to identify and apprehend.” The commission also called for public education efforts and cooperation with the academic community to seek solutions to these problems. It recommended that the current $250 million annual expenditures in this area be doubled for FY 1999, and increased by $100 million annually until the $1 billion figure is reached in 2004. The full Commission report may be found at their web site, WWW.PCCIP.GOV

Information Security Oversight Report — The latest report of the Information Security Oversight Office documents the remarkable efforts of the current Administration to reduce national security classification. It reports that “since 1980, the agencies of the executive branch have declassified almost half a billion pages of records having permanent historic value,” and that “close to half of this 17-year total was achieved in fiscal year 1996 alone, and nearly two-thirds in fiscal years 1996 and 1995 combined.” According to data summarized in the report, the number of original classification authorities in the executive branch decreased by 22% during 1996, and original classification decisions dropped nearly 40% over the previous year. Under automatic declassification programs and mandatory declassification review, more than 198 million pages of classified material were released—an 800% increase over the previous year.

Chinese Media Report — The CIA’s Center for the Study of Intelligence has released an unclassified monograph, by Todd Hazelbarth, on “The Chinese Media: More Autonomous and Diverse—Within Limits.” Based upon a one-year research project involving, inter alia, interviews with scholars and journalists in East Asia and the United States, the study reports a “more autonomous and more diverse” political content to Chinese media resulting in part from a desire by journalists to pursue news “of interest to the public,” skepticism of party and government authority, and the profit motive.” However, Hazelbarth concludes, “powerful domestic institutions continue to constrain the media, maintaining limits on what can appear in print or be broadcast on the airwaves,” and “complete media autonomy . . . will not materialize in the post-Deng Xiaoping era until and unless China undergoes overarching political change, including removal of the party’s authority to supervise the media.

Conspiracy Buff Oliver Stone Ready to Support Vietnam War? — On the lighter side, in a brief interview in the October issue of George magazine, Hollywood producer and Vietnam war critic Oliver Stone was asked: “Name a reason to go to war.” He replied: “For self-defense or to honor treaties we’ve signed (thus, as President I’d be very careful in signing treaties).” When the United States became involved in Vietnam, of course, it was a party to the SEATO treaty, which provided in Article IV that “each Party recognizes that aggression by means of armed attack in the treaty area . . . against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes.” South Vietnam, Laos, and Cambodia were unanimously so designated in a simultaneous protocol to that treaty, and during the August 1964 congressional debates prior to enactment of the Gulf of Tonkin Resolution (by a combined vote of 504-2), even Senator J. William Fulbright acknowledged that the law being passed would have the effect of satisfying the “constitutional processes” requirement of the SEATO Treaty. One wonders when brother Stone is going to announce his change of position?

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