

ARMY DIPLOMACY¹

REVIEWED BY FRED L. BORCH III*

Of all the services, the [A]rmy had the most influence over early Cold War policy, primarily because of its occupational duties in Germany, Japan, and elsewhere. Generals such as Lucius Clay in Germany, Douglas MacArthur in Japan, Mark Clark in Austria, and John Hodge in Korea presided over occupied territories as American viceroys.²

This important and thoroughly researched book deserves to reach a wide audience in our Corps and our Army. *Army Diplomacy* is the first comprehensive study of the Army's role in the planning and implementation of military government in the aftermath of World War II. As professional soldiers, lawyers in uniform will find the book's discussion of various policy issues involving the post-war occupation of Austria, Germany, and Korea to be fascinating reading. Judge advocates will also find the book instructive because the development of Army doctrine on military occupation in the early 1940s (and the implementation of an occupation policy in liberated and conquered territories after 1943) was largely influenced by lawyers and the law. Finally, those interested in our Corps' history will want to read *Army Diplomacy* because Major General Allen W. Gullion, the senior Army officer in charge of all military

* Fred L. Borch is the Regimental Historian and Archivist for the U.S. Army Judge Advocate General's Corps. He graduated from Davidson College (A.B., 1976), from the Univ. of North Carolina (J.D., 1979), and from the Univ. of Brussels, Belgium (LL.M., *magna cum laude*, International and Comparative Law, 1980). Mr. Borch also has advanced degrees in military law (LL.M., The Judge Advocate General's School, 1988), national security studies (M.A., *highest distinction*, Naval War College, 2001), and history (M.A., Univ. of Virginia, 2007). From 2012 to 2013, he was a Fulbright Scholar to the Netherlands and a Visiting Professor at the University of Leiden's Center for Terrorism and Counterterrorism. He was also a Visiting Researcher at the Netherlands Institute of Military History. Fred Borch is the author of a number of books and articles on legal and non-legal topics, including *JUDGE ADVOCATES IN COMBAT: ARMY LAWYERS IN MILITARY OPERATIONS FROM VIETNAM TO HAITI* (2001); *JUDGE ADVOCATES IN VIETNAM: ARMY LAWYERS IN SOUTHEAST ASIA* (2004); *FOR MILITARY MERIT: RECIPIENTS OF THE PURPLE HEART* (2010); and *MEDALS FOR SOLDIERS AND AIRMEN* (2013).

¹ WALTER M. HUDSON, *ARMY DIPLOMACY* (2015).

² *Id.* at 1.

government matters from 1941 to 1944, formerly served as The Judge Advocate General of the Army.

At the height of the United States' "responsibilities, more than 300 million people around the world were under some form of U.S. military government authority."³ Since the population of the United States in 1945 was about 140 million, this was a remarkable situation. While historians today view the Army's role in the post-war reconstruction of Germany and Japan to be a key factor in the emergence of democracy in both nations, the idea of a beneficial military government was not the prevailing view in Washington, D.C., in the early 1940s. President Franklin D. Roosevelt "thought the idea of military government was 'strange' and even 'abhorrent,'"⁴ and other senior civilian leaders in his war-time cabinet also opposed military governance.⁵ Secretary of the Interior Harold L. Ickes, a New Deal progressive, was convinced that if the Army were in charge of any post-war occupation, then "military men would grab power and refuse to give it up."⁶ Moreover, as the Interior Department during this period was responsible for the governance of the American territories of Guam and the Philippines, Ickes believed that civilian officials in the U.S. government were best suited for the post-war administration of any liberated or conquered territory,⁷ rather than the employment of military officials. Vice President Henry Wallace, another New Dealer, likewise envisaged a future in which civilians from the Interior, State, and Treasury Departments would be in charge of post-war occupations.⁸ Even senior Army officers did not like the idea; General George C. Marshall thought having the military preside over newly liberated Axis territory might "damage the high regard in which the professional soldiers in the Army" were held by the American people.⁹

As *Army Diplomacy* discusses in its opening chapters, the Army had considerable experience in the post-conflict governance of civilians. During the Mexican War (1846–1848), the Army had established martial law in Mexican territory, and maintained good order and discipline through the use of military commissions and provost courts.¹⁰ During the

³ *Id.*

⁴ *Id.* at 100.

⁵ *Id.*

⁶ *Id.* at 101.

⁷ *Id.* at 102.

⁸ *Id.* at 102–04.

⁹ *Id.* at 2.

¹⁰ *Id.* at 28.

Civil War and the Reconstruction that followed, Union forces ran military governments in former Confederate states and in the years following the Spanish–American War, the Army had “established civil governments in Puerto Rico, Cuba and the Philippines ‘with great success.’”¹¹ After World War I, U.S. troops occupied a 12,000 square-mile area of Germany, and the lessons learned in this so-called “Rhineland” occupation were published by the Fort Leavenworth School Press as a manual entitled *Military Government*,¹² in 1920.¹³ Finally, as the fighting raged in Europe and the Pacific, the Army was fully immersed in running a military government in Hawaii because martial law had been declared in the territory on December 7, 1941.

The past history of successful post-war governance meant that, unlike civilian departments and agencies in the Roosevelt administration, the Army had a wealth of practical experience in planning for and implementing an occupation policy. Additionally, the Army of the day was full of politically savvy officers who were able to represent the Army’s interest in the bureaucratic realm, not only with other U.S. agencies but also with organizations in Allied governments.

The Army also had a very powerful supporter whose stature in the Roosevelt cabinet was unchallenged: Secretary of War Henry L. Stimson. A Harvard Law graduate and “paragon of the American [White Anglo-Saxon Protestant] (WASP) establishment,”¹⁴ Stimson served as an artillery colonel in World War I and was positive about his Army experience; in fact, he was called “The Colonel” by those who worked with him.¹⁵ Stimson was also politically astute and, despite being a Republican, was trusted by Roosevelt for his sage advice. Stimson previously served as Secretary of War under President William Howard Taft, and had been President Herbert Hoover’s Secretary of State. Consequently, he had much more experience than other officeholders in the Roosevelt administration. Perhaps more importantly, Stimson served as governor–general of the Philippines in the 1920s.¹⁶ As a result, he was a strong proponent of military government’s necessity—and was convinced that the Army must play the key role in any post-war occupation.¹⁷

¹¹ *Id.* at 36.

¹² H.A. SMITH, *MILITARY GOVERNMENT* (1920).

¹³ HUDSON, *supra* note 1, at 38.

¹⁴ *Id.* at 99.

¹⁵ See GODFREY HODGSON, *THE COLONEL* (1990).

¹⁶ HUDSON, *supra* note 1, at 99.

¹⁷ *Id.*

Finally, there was one practical reason that the Army ultimately took charge of all post-war occupation efforts: it was the only American institution with sufficient manpower, discipline, and unified command structure necessary to successfully implement a military occupation. Even if a civilian agency in war-time Washington wanted to take charge of all post-war occupation efforts, that agency was simply no match for the Army.¹⁸ The final result: the Army became “the dominant U.S. government actor in postwar occupation policy.”¹⁹

As *Army Diplomacy* shows, it was one thing to determine as a policy matter that the Army should take the lead role in the post-war occupation of conquered and liberated Axis territories, but quite another to decide upon the nuts-and-bolts of any occupation. Luckily for the Army, the Provost Marshal General who was tasked with developing a military occupation doctrine and determining how that doctrine should be implemented in practice was Major General Allen W. Gullion. A 1905 graduate of the U.S. Military Academy, Gullion served twelve years as an Infantry officer and saw combat in the Philippines. Then, three years after obtaining a law degree from the University of Kentucky, Gullion was appointed to the rank of major in the Judge Advocate General’s Department.²⁰ He had a remarkable career as an Army lawyer, culminating in his appointment as The Judge Advocate General (TJAG) in 1937.²¹ While it would have been expected for TJAG to retire and enter civilian life, Gullion was too valuable an asset. This explains why, some months before retiring as TJAG in December 1941, Gullion was appointed by General George C. Marshall as the Army’s Provost Marshal General, a position Gullion held from July 1941 until April 1944.²²

As Provost Marshal General, Gullion and his staff formulated the policies for military governance adopted by Roosevelt, including an important 1943 revision to Field Manual (FM) 27-5, *Military Government*

¹⁸ *Id.* at 115-17.

¹⁹ *Id.* at 3.

²⁰ Edmund A. Gullion, *Allen W. Gullion 1905*, WESTPOINTOAG.ORG, <http://apps.westpointaog.org/emorials/Article/4430/> (last visited Nov. 19, 2015).

²¹ *Id.*

²² Dr. Ronald Craig, *Evolution of the Provost Marshal General*, WOOD.ARMY.MIL, <http://www.wood.army.mil/engrmag/PDFs/April%2004%20pdfs/Craig-evolution%20PMG%20office.pdf> (last visited Nov. 19, 2015); HUDSON, *supra* note 1, at 77-78.

and Civil Affairs.²³ This manual ultimately emerged as the bible for all those involved in military occupation duties because “it provided guidance on how to train, plan, and eventually implement military government.”²⁴ Gullion recognized, however, that having a doctrine was insufficient; there must also be education and training for those who would use FM 27-5.²⁵ As a result, Gullion established a Military Government School at the University of Virginia that trained officers (some of whom were judge advocates) for possible military occupation duties.²⁶ Later, again on Gullion’s recommendation, the Army created a Civil Affairs Division (as part of the War Department General Staff) to utilize the military personnel being educated in Charlottesville, Virginia.²⁷

Whatever fears Roosevelt and others might have had about Army officers as military governors—men who might be Old World imperialists with colonialist attitudes²⁸ or simply a new type of Nazi *gauleiter*²⁹—these misgivings almost certainly were allayed by the fact that then Lieutenant Colonel Gullion had shown unwavering support for the New Deal and the President’s progressive politics while serving as the National Recovery Act administrator in Hawaii in 1935.³⁰

²³ U.S. DEP’T OF ARMY, FIELD MANUAL 27-5, UNITED STATES ARMY AND NAVY MANUAL OF MILITARY GOVERNMENT AND CIVIL AFFAIRS (22 Dec. 1943).

²⁴ HUDSON, *supra* note 1, at 72.

²⁵ *Id.* at 77.

²⁶ *Id.* at 78, 85.

²⁷ *Id.* at 135–55.

²⁸ *Id.* at 108.

²⁹ *Id.* at 111.

³⁰ HUDSON, *supra* note 1, at 77. In 1933, the Congress passed legislation designed to stem the deflation of the Great Depression (which had begun in October 1929) and stimulate the U.S. economy. See *U.S. monetary and fiscal policy in the 1930s*, 26 OXFORD REV. OF ECON. POL’Y 385 (2010). Part of this legislation included the establishment of a National Recovery Administration (NRA), which adopted a blue eagle as its symbol and “We Do Our Part” as its slogan. See, e.g., “*We Do Our Part*”, GEORGE MASON UNIV., <http://historymatters.gmu.edu/d/6697/> (last visited Mar. 9, 2016). The goal of the NRA was for the government to bring industry and labor together to create codes of “fair practice” and set prices that would raise consumer purchasing power and increase employment. *The National Recovery Administration*, UNIV. OF HOUSTON (2016), http://www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=2&psid=3442. Hugh S. Johnson, who had been a member of the Judge Advocate General’s Department in World War I, was the first Director of the NRA. *Id.* He selected administrators—like Gullion, who Johnson knew from his years as a judge advocate—to implement NRA goals. Interview with General Thomas S. Moorman (Retired) United States Air Force, grandson of Major General Gullion (Aug. 20, 2015). The NRA legislation included: a minimum wage of between twenty and forty-five cents per hour and a maximum work week of thirty-

After setting the stage for the Army's emergence as the prime mover in the post-war occupation of liberated and conquered lands, *Army Diplomacy* devotes its remaining pages to reviewing the planning and implementation of military government in Germany, Austria, and Korea.³¹ Germany at this time was a conquered nation, and Korea was ostensibly liberated. Austria existed in an "unusual gray area"³² in that it was a victim (of German annexation), yet was also criminally liable for the war crimes committed by its citizens while part of the Third Reich.

The military occupation of Germany and Austria was generally successful, if for no other reason than the Germans and Austrians recognized that having lost the war, they must accept military governance as part of losing. But the occupation was not without its challenges, especially concerning "denazification."³³ While a laudable goal, it was simply not practical to eliminate all Nazis from economic and social life, and it was difficult to determine who was an "active" Nazi, as opposed to a German who joined the Party only because it was required in order to obtain employment. Those readers who know of the de-Ba'athification efforts by the Coalition Provisional Authority in the aftermath of the 2003 Iraq invasion will find the discussion of denazification in Germany most interesting and instructive, especially as the decision to remove the Ba'ath Party from Iraqi life has produced decidedly mixed results.³⁴

Army Diplomacy sees the occupation's success in Austria as especially noteworthy, and argues persuasively that General Mark Clark's apolitical and relatively amicable relationship with the Soviets, combined with an endorsement of a provisional Austrian government headed by a civilian, as the catalyst for an early end to the four-zonal military occupation of

five to forty-five hours. See Jonathan Grossman, *Fair Labor Standards Act of 1938: Maximum Struggle for a Minimum Wage*, DEP'T OF LABOR, <http://www.dol.gov/general/aboutdol/history/flsa1938> (last visited Mar. 9, 2016). While the NRA was popular with labor, it faced considerable resistance in the business community. *Id.* The U.S. Supreme Court declared the NRA unconstitutional in *Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935). For more on the NRA, see JOHN K. OHL, HUGH S. JOHNSON AND THE NEW DEAL (1985).

³¹ HUDSON, *supra* note 1, at 157.

³² *Id.* at 3.

³³ *Id.* at 192–99.

³⁴ See, e.g., Miranda Sissons & Abdulrazzag Al-Saiedi, *A Bitter Legacy: Lessons of De-Ba'athification of Iraq*, <https://www.ictj.org/sites/default/files/ICTJ-Report-Iraq-De-Baathification-2013-ENG.pdf> (last visited November 9, 2015).

Austria.³⁵ But from the beginning, the Austrians saw the Americans very much as saviors: there were 750,000 displaced persons and 200,000 refugees, and the U.S. Army provided these starving men, women, and children with “the basic necessities of life.”³⁶ As a result, there was “a relatively placid population with whom the U.S. occupiers had good relations,”³⁷ and a smooth transition to a centralized—and civilian—government. The occupation of Austria ended in 1955, with the peaceful withdrawal of all occupying forces.³⁸

As for Korea, *American Diplomacy* demonstrates that this occupation was a failure. While the Army began detailed planning for the post-war occupation of Germany and Japan as early as 1942, little thought was given to Korea until 1945, likely due to the Pentagon’s expectation that the Pacific War would continue into 1946 and even longer.³⁹ From the beginning, the “control machinery” for the Korean peninsula went awry. The first problem was the artificial division of Korea at thirty-eight degrees north latitude. Initially, the thirty-eighth parallel was only applicable to surrender provisions: Japanese forces south of the parallel would surrender to U.S. troops while those north of the line would surrender to Soviet troops.⁴⁰ But this dividing line, which paid no respect to Korean political boundaries and “passed through streams, rivers, roads, highways, and rail lines with total arbitrariness,”⁴¹ hardened within a short period of time—and remains in place today. From a historical perspective, this zonal split “wounded the collective consciousness of the Koreans,”⁴² as Korea had been an independent and united country for centuries before the brief Japanese occupation of the World War II era.

From the outset, military governance in Korea was fraught with geographical problems. A culturally savvy officer who understood Asia and Asian culture might have done a better job, but this was not to be. On the contrary, Lieutenant General John Hodge, in charge of military government efforts, “lacked the civil-political experience for the occupation.”⁴³ Unfortunately for Hodge, the Korean occupation was the

³⁵ HUDSON, *supra* note 1, at 227–28.

³⁶ *Id.* at 217.

³⁷ *Id.* at 227.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* at 236.

⁴¹ *Id.* at 239.

⁴² *Id.* at 243.

⁴³ *Id.*

most difficult of any mission carried out by U.S. troops after World War II, and he was simply not up to the task. As a result, the Soviets conducted their occupation north of the thirty-eighth parallel without any coordination with the Americans to the south of that artificial dividing line.⁴⁴ The result was the rapid establishment of two entirely dissimilar governmental systems—and trouble that would later explode into a full-scale conventional war in June 1950,⁴⁵ and a persistently problematic division that continues to the present.

Army Diplomacy is a first-rate piece of scholarship that belongs on the shelf of every judge advocate with an interest in World War II in general, and the legal and policy issues surrounding post-war planning in particular. The author, an active Army lawyer who has a Ph.D. in military history from Kansas State University,⁴⁶ is to be commended for authoring this excellent and highly informative book.

⁴⁴ *Id.* at 253.

⁴⁵ *Id.* at 260.

⁴⁶ *Id.*