

**NEW ARMY DECISION
WIPES OUT GUARD**

Discharged From U. S. Service
Former Militia Members
Become Civilians.

BAKER APPROVES RULING

Status Settled by Opinion of
Acting Judge Advocate
General.

Special Dispatch to THE SUN.
WASHINGTON, Dec. 24.—Officers and
enlisted men of the National Guard
will revert to civilian status when dis-
charged from the Federal service. An
opinion by the acting Judge Advocate
General of the army making this rul-
ing has been approved by Secretary
of War Baker and was made public to-
day.

It will result virtually in wiping out
the existence of the National Guard as
it existed prior to the entrance of this
nation into the war, it is explained.
Brig.-Gen. S. T. Ansell, who has been
acting Judge Advocate General since
Gen. Crowder was appointed Provost
Marshal General to handle the draft,
rendered the opinion. It was in re-
sponse to a request from Gen. Peyton
C. March, Chief of Staff, who called at-
tention to a digest of an opinion of the
Judge Advocate General dated Janu-
ary, 1918, in which it was said that
when the guardsmen were mustered
out of the Federal service they would
revert to their militia status and also
to their status in the National Guard.

The opinion of Gen. Ansell follows:
"In a memorandum dated December
25, 1918, you call attention to a pre-
cedent digest of an opinion of the
Judge Advocate General in January,
1918, which digest contains the follow-
ing sentence with reference to the dis-
charge of persons drafted into the
Federal service as members of the Na-
tional Guard 'when mustered out of
the Federal service they revert to their
former status in the militia of the sev-
eral States from which they were by
the draft called into the Federal ser-
vice subject to the qualification that
the time spent in the service of the
United States will count upon their
enlistment of terms of commission.'"

Finding of Opinion.
"This sentence is found in a footnote
on page 307 of the supplement to the
militia laws of the United States, fifth
edition. The correct digest of the
opinion in question is found on page 7
of the digest of opinions for the
Judge Advocate General for January, 1918,
and the sentence above quoted is not
found therein. The quoted sentence is
based upon an obiter expression con-
tained in said opinion, which was de-
leted from an opinion of this office
dated December 16, 1918, wherein the
question and answer were as follows:
"Q. What is the status of the mem-
bers who have just been mustered out
of the Federal service? Do they auto-
matically revert to the National
Guard?"

"A. The muster out is a release from
Federal service under the call only and
does not affect enlistment contracts of
members of the National Guard. They
therefore automatically revert to the
status of the National Guard or or-
ganizations of the Federal service to
which they were at the date they were
called into the service of the United States,
except that the time served in the ser-
vice of the United States will count
upon their enlistments or terms of
commission."

Question of Release.
"Considering the sentence first above
quoted in the light of the opinion upon
which it is based, it is perfectly ap-
parent that it referred to a muster out
of the Federal service after a call into
the Federal service, and not to a dis-
charge after a draft into the Federal
service."

"As a matter of fact the opinion in
the digest of which this sentence oc-
curs holds without qualification that
the draft of a member of the National
Guard into the Federal service abso-
lutely discharges him from the militia,
which includes the National Guard.
Furthermore, this office has held that
a commission in the temporary forces
is incompatible with a commission in
the National Guard and operates to
cancel the commission in the National
Guard."

"It is therefore the opinion of this
office that former members of the Na-
tional Guard, both officers and enlisted
men, who entered the service by draft
under the President's proclamation of
July 3, 1917, will when discharged from
the Federal service revert to a civilian
status and will not revert to their for-
mer status as members of the National
Guard."

**BAKER SAYS GUARD
MUST BE REBUILT**

Much Depends on Military
Legislation by Congress.

By the Associated Press.
WASHINGTON, Dec. 24.—If Congress
determines to continue the National
Guard as the army reserve of the na-
tion, Secretary Baker said to-day, the
guard service will have to be recon-
stituted from the ground up.

Mr. Baker expressed a belief that the
problem of the National Guard is bound
up closely with the question of what
Congress may do later in framing
legislation to establish a permanent
military policy. Existing law pro-
vides for the Regulars and the National
Guard should some system of
universal military training be worked
out, however, army officers said, it is
probable that the National Guard
would cease to exist. The War De-
partment has not as yet made any
recommendations on the subject, hav-
ing contented itself thus far with
seeking appropriations only for the
Regular Army in the coming fiscal
year.

There are many National Guard
units organized since the war by the
various States which are not affected
by the War Department's ruling. In
some cases Federal recognition has
been obtained, placing the units under
the federalization sections of the act
of 1916.

The great mass of the guard, how-

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ever, was merged into the temporary
forces of the army of the United States
for the war, thereby completely losing
its identity. These regiments, includ-
ing every historic military organiza-
tion in the country, some with records
dating back to the Revolutionary War
and many of them being survivals of
civil war volunteer organizations,
must, under the ruling, be recon-
stituted, recruited to necessary strength
and again presented to the Federal
Government for recognition before
they can take places in the Federalized
National Guard.

Another element of uncertainty in
the guard situation, it was said to-day,
is the question of the extent to which
divisions which saw service in France
have been diluted by replacements
from National Army troops. Regi-
ments like some of the New York
or New England units, in divi-
sions which took part in the fighting
almost from the first, officers said,
now probably contain less than 50 per
cent. of their original personnel.

Losses were made good with men
from various parts of the country
and have no National Guard status
whatever. Officers were assigned from
training camps at home or abroad and
the returning divisions or regiments,
while being the inheritors of the tradi-
tions of the old National Guard
units which composed the units, and
the ranks were made up of men from
the old State service, probably will bear
little resemblance to the units that
entrained for camp after the guard
was drafted in July, 1917.

Mr. Baker said he anticipated that
State authorities generally would not
attempt to reconstitute any of the old
regiments of the National Guard until
after the divisions into which they
had been merged return from France.
It would seem desirable, he thought,
that men to be discharged from those
divisions should have a chance to re-
enlist in the Guard. This would en-
able, he said, the reconstituted reg-
iments to be in fact as well as in name
a continuation of the old organizations,
with every right to carry the names
of the historic battles in France—of
Chateau Thierry, the second Marne,
the Gurra, the Vesle, St. Mihiel's, Ar-
gonne Forest, Sedan, Cote Chantillon
and other places—the divisions made
famous, on their banners.

**N. Y. GUARD WILL
CONTINUE AS MILITIA**

Members of Former Body
Are Invited.

Special Dispatch to THE SUN.
ALBANY, Dec. 24.—The New York
Guard, which was organized after the
National Guard had been Federalized,
will be continued as the State militia,
and returning National Guardsmen
will receive every opportunity to join
the State Guard.

Returning guardsmen will find a
large number of old friends in the
State Guard, practically all the of-
ficers and 60 per cent. of the men hav-
ing seen service with the former Na-
tional Guard. The authorities believe
that a very large percentage of Na-
tional Guardsmen will join the State
Guard upon their return as a matter
of choice, to keep up the military
routine to which they have been ac-
customed.

**GRANT IS ALL READY
FOR VICTORY FLEET**

Continued from First Page.

In the positions they now occupy. The
moment at which the returning ves-
sels will anchor depends upon the con-
dition of the weather. If it is foggy
the manœuvring to assigned berths will
take some time.
It is thought the anchors will drop
at about 10:30 o'clock. Admiral Grant,
commander of the home fleet, will im-
mediately board the Pennsylvania to
greet Admiral Mayo. A fleet of naval
tugs will nuzzle up to the returned
dreadnoughts and take about 8,000
men ashore for the land parade. This
ferrying will be completed about 12:30
P. M. Half of the sailors will be landed
at Seventy-ninth street; half at Nine-
ty-seventh street. It is expected that
the procession will start down Broad-
way at 1:30 o'clock and will reach the
reviewing stand at the Public Library,
Fifth avenue and Forty-second street,
at 2:30. It is impossible now to state
the order of march, as the only man
who knows it is Admiral Mayo, and
the information expected from him by
wireless has not yet been received.

5,000 Men to Get Furlough.
Right after the parade furloughs and
shore leave will begin. About 5,000
men will get furloughs. On each ship
sips will be distributed permitting the
vacationists to ride to and from their
homes on the railroads at the rate of
1 cent a mile. Half of the men will
have shore leave on Thursday night
and the other half on Friday night.

Rodman Wanamaker, chairman of
the Mayor's welcoming committee,
said last night that no one will be
in front of the Marine Monument at
Columbus Circle, and each man will wear one
or more gold stripes indicating for-
eign service. Units from ships num-
bered one to five will form in Seventy-
ninth street and from ships six to
ten in Ninety-sixth street.

Five thousand Boy Scouts of Amer-
ica will march from the Seventy-first
Regiment Armory to Twenty-sixth
street and Fifth avenue at 1 o'clock.
About 6,000 additional Scouts will sing
patriotic songs in Fifth avenue near
the Public Library.

Orders issued to the police yester-
day by Inspector O'Brien fill six type-
written pages. The inspector says that
several automobiles containing wound-
ed soldiers and sailors will be paraded
in front of the Marine Monument at
Columbus Circle. The number of pa-
trolmen detailed to parade duty is
3,440, which is probably a record for
New York.

The Fifth Avenue Association has
asked all its members to allow rela-
tives of the sailors to view the spec-
tacle from store windows. J. M.
O'Connor and Otto B. Shuloff will be
at the office of the Mayor's commit-
tee, room 602, Hall of Records, from
8 A. M. to noon to-morrow to issue
tickets for the window seats. Among
the merchants who will permit access
to their windows are Franklin Simon
& Co., B. Altman & Co., Best & Co.,
J. M. O'Connor & Co. Many clubs
and hotels will do likewise.

The advantages pointing from which
the naval procession may be viewed
will be turned over to the public by
Dock Commissioner Hulbert. They are
the recreation pier at the foot of West
129th street and the pier at the foot
of Barrow and Cedar streets.

To make shore leave easier for the
sailors after the parade the War Camp
Community Service will keep its five
headquarters units open day and night
until January 2. The sailors can get
sleeping quarters by applying at 123
Schermhorn street, Brooklyn; 99
Trinity place, 55 West Twenty-seventh
street, Riverside Park at Ninety-sev-
enth street, or 79 Manhattan street.
The new Pershing Club for Officers,
Madison avenue at Forty-fourth street,
will have 500 extra cots; the Students'
Training Corps barracks at Columbia
University will be available and the
War Camp Community Service has
lent 500 cots to the Y. M. C. A. for use
in its buildings. Partners will be pro-
vided for more than 3,000 men at a
dance in the Seventy-first Regiment
Armory. The War Camp Community
Service will distribute thousands of
theatre tickets during the holiday
week.

Wilson Saves Doomed Soldiers.
WASHINGTON, Dec. 24.—Death sen-
tences imposed by courts-martial for
desertion upon Recruit F. C. Laub and
Private George O. Jacobs, 150th In-
fantry, were computed by President Wil-
son to-day to dishonorable discharge
and twenty years imprisonment at
hard labor.

**ARMISTICE FORCES
BOOKSHOP FAILURE**

Henry Malkan Was Over-
stocked on Works Deal-
ing With War.

As a result of a short conversation
between a man named Foch and a
man named Erzberger that took place
at a crossing on the La Capelle road
in France some six weeks ago to-day
some millions of Americans arose this
morning to enjoy the happiest Christ-
mas of their lives. So what happened
to Henry Malkan because Ferdinand
Foch pointed to a dotted line and
Mathias Erzberger put his name there
doesn't matter a whole lot in the great
scheme of things, but
Henry Malkan, it may be recalled
by an older generation of New York-
ers, used to sell papers down under
the elevated structure in Hanover
Square twenty-seven years ago.
There may be somebody in New York
to-day who recalls his stand, for he
sold a lot of papers, Henry did, and
grew yearly more prosperous.

Finally there was a new boy under
the "L" for Henry, out of his pennies,
had set himself up in a modest way in
the bookseller's trade. Prosperity
went into partnership with him, so it
seemed, and it was not long before
Malkan's was one of the largest book
stalls in all the city, and the new-
boy of other years was one of the
solid figures of the New York busi-
ness world with sizable publishing in-
terests as well as his big retail book
store under the sidewalk at 42 Broad-
way. Perhaps every bookworm in
New York has browsed at one time
or another among the thousands of
volumes on the shelves of this sub-
terranean shop.

There were a lot of them in there yes-
terday buying Christmas books when
Gustav C. Wedekind walked in and
took charge of the place. Mr. Wede-
kind, through his frequent appear-
ances as a receiver in the bankruptcies
of book makers, has come to be known
in the publishing world as a sort of
business surgeon. His intervention in
the affairs of Henry Malkan was due
to an order signed earlier in the day
by Judge Learned Hand in the United
States District Court, where an in-
voluntary petition in bankruptcy had
been filed against Henry Malkan by
a company of creditors, including the
Zineograph Company, D. Appleton &
Co., and Frederick A. Stokes.

It was Mr. Wedekind who divulged
the part Foch and Erzberger and their
armistice had in his coming. Henry
Malkan, in the face of a tremendous
demand for books on the war, had laid
in a tremendous stock of them by
November 11 of this year. A contract
with one printer alone for more than
\$200,000 worth of books of this char-
acter was one of the burdens the sud-
den coming of peace found on his
hands.

The day after the armistice was
signed Malkan sold hardly a single
book on the war. He found that he
hardly could give one away, much less
persuade the retail trade to buy the
thousands he had contracted for with
the printers.

According to the schedule filed with
the court Henry Malkan owes \$100,000
and has assets of only \$50,000.
Mr. Wedekind pointed out that the
schedule didn't tell everything.
"Take the item of \$50,000 assets, for
instance," he said. "As the nominee of
his creditors and the representative of
their interests, I consider this item a
small part of the assets Henry Malkan
can muster to put him on his
business feet. But of course you can't
list on bankruptcy petition the kind
of assets that made a Hanover Square
newsboy a big figure in the book world,
although they're there just the same."

CHILD BURNED TRAILING SANTA
Search for Gifts in Mother's Ab-
sence Has Serious Results.
The mother of six year old Anna
Rudolph, 864 East 72d street, went
Christmas shopping yesterday and
during her absence the child began
exploring closets with lighted matches
to see if Santa Claus had visited the
house. Her clothing caught fire and
she ran screaming into the hallway,
that a neighbor, Mrs. H. H. H. who lives next door,
heard her cries and hurried in, smother-
ing the flames with his coat.
The child was taken to Fordham
Hospital in an ambulance and was said
to be in a serious condition.

Stern Brothers
West 42nd and West 43rd Streets

**The Annual January Sales of
WOMEN'S UNDERWEAR**

**AND
HOUSEHOLD LINENS**

Will Begin on Monday, December 30th

The prevalent labor shortage slightly delayed the opening of these extra-ordinary events—details incident to the preparation of which are infinite.

Patrons will be amply repaid by waiting for our White Sales this year.

Unusually extensive merchandising involving large purchases—many consummated as far back as a year ago, both here and abroad—bid fair to make these events transcend in importance any similar previous sales as regards

Comprehensiveness of assortments, quality of merchandise and the great money saving opportunities offered.

Details will be published on Sunday, December 29th

WOMEN'S KNITTED UNDERWEAR

At much less than regular prices—To-morrow

Women's Cotton Combination Suits Low neck, sleeveless, French band top, ankle, also knee length, Regularly \$1.25 and 1.50 at \$1.10	Heavy Cotton Combination Suits Low neck, sleeveless, also high neck, long sleeves, ankle length, Regularly sold for \$2.00 at \$1.50	Cotton and Wool Combination Suits Low neck, sleeveless, also high neck, long sleeves, ankle length, Regularly sold for \$3.25 at \$2.50
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**Radical After Christmas Reductions on
LUXURIOUS FUR COATS**

Beginning To-morrow, on the Third Floor

1 Genuine Russian Ermine Coat Former price \$2250.00 at \$1750.00	1 Beautiful Moleskin Coat Former price \$825.00 at \$650.00
1 American Ermine Coat Former price \$1500.00 at \$1000.00	1 Attractive Moleskin Coat Former price \$775.00 at \$550.00
1 Handsome Broadtail Coat Former price \$1450.00 at \$1000.00	1 Charming Mink Coat Former price \$675.00 at \$475.00
1 Handsome Moleskin Wrap Former price \$950.00 at \$700.00	1 Gray Squirrel Coat Former price \$595.00 at \$475.00

\$525.00 Rich Grey Squirrel Cape at \$395.00

**There Is
A special pleasure this year
in sending Christmas and
New Year's Greetings**

Above all, there is "Peace on Earth" at a fearful sacrifice, but not so great a cost as we were prepared and had expected to pay.

Victory brings greater responsibilities and larger opportunities to us as individuals and to our religious, educational and business organizations.

Let us realize this and greet the New Year cheerfully and confidently, determined to do the task at hand in such a way as to assure continued peace, happiness and prosperity.

Lord & Taylor
Wish You a Merry Christmas
and a Happy New Year