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COURTS-MARTIAL IN EUROPE—REPORT ON
DISCIPLINARY SYSTEM AND COURTS-
MARTIAL IN THE 33RD (ILL.)
DIVISION, A. E. F.

NATHAN WILLIAM MACCHESNEY²

ORDERS

1. Pursuant to Order No. 38, office of the Acting Judge Advocate General for the A. E. F. in Europe, dated April 19, 1919, I left Chaumont for the Headquarters, VI Corps, with Colonel Hurley, the Corps Judge Advocate, on April 20th, visiting the VI Corps Headquarters at Villerupt, France, and going over with him the various questions of the methods of work at the corps headquarters and the policy pursued by him in the handling of matters there.

REPORTED TO DIVISION COMMANDER

2. In pursuance of the above order I reported to Major General George Bell, Jr., the Commanding General of the 33rd Division, at his headquarters at Diekirch, Luxembourg, on the morning of April 20th, and he directed that the Acting Division Judge Advocate, Lieut. Colonel James H. Stansfield, furnish me every facility for thorough examination of their disciplinary system in that division.

CONFERENCE WITH DIVISION JUDGE ADVOCATE

3. The Acting Judge Advocate, Lieut. Colonel James H. Stansfield, Infantry, prepared a tabulation of the general courts-martial, special courts-martial and summary courts-martial trials held since the 1st of January in the division, a copy of which is herewith attached. It will be noted from the attached tabulation that during the period from January 1st to April 20th, when the report was prepared, that there were held in the division six general courts-martial trials, 108 special courts-martial and 464 summary courts-martial. Upon inquiry as to the record of the division prior to January 1st I find that so far as the general courts are concerned that the list as given is practically complete, and that there were prior to that time, from the arrival of the division in France, in May, 1918, to December 31,

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1918, 68 special courts-martial and 517 summary courts-martial trials.

4. It will be noted from these figures that the number of general courts-martial held was remarkably low, and General Bell informed me that of this number only four were of men in the division, the others being of men tried by courts-martial of the division but who did not belong to it. Judging by the records passing through this section for review, the number of general courts in the 33rd Division is much smaller than the average, and so far as I know is the smallest of any division in the A. E. F.

QUESTIONS CONSIDERED AS TO COURTS-MARTIAL WORK OF DIVISION

5. In view of the above record, several inquiries arose in my mind:

A. How was general courts-martial work reduced to this minimum?

B. Did the discipline of the division, in view of the minimum number of general courts, suffer because of that fact?

C. Was there any complaint upon the part of the brigade, regimental or battalion commanders that they had not been properly supported in their various units by the appointing authority in referring cases for trial upon charges prepared by them?

D. Were there any exceptional circumstances connected with the division which would account for these results?

A.

6. Upon inquiry of Colonel Stansfield I found that he had assumed the duties of the Acting Judge Advocate of the Division on December 27, 1918, when there had accumulated a number of charges awaiting reference for trial, and throughout the division a number of offenses upon which charges had not been prepared. There had been few trials during combat and little opportunity for trials prior to the movement of the division into Germany and back to Luxembourg, the movement ending about Christmas time, Lieut. Colonel Chipperfield having been previously detailed away from the division. The Acting Judge Advocate stated that in the records of trial coming into his office there appeared many irregularities and noncompliance with the courts-martial manual. In each case the record was carefully examined, and where any irregularities appeared notes were made and the charge sheet or record returned to the commanding officer to be noted and returned. In this way and by conference with

the summary court officers, the officers holding special courts, and the trial judge advocates, these officers were assisted and educated in the making of records in compliance with the courts-martial manual and army regulations. The commanding general of the division called the attention of the various commanding officers to the character of offenses for which trials were had and of the sentences to be imposed by the summary court and special courts within the division, with a view to establishing so far as possible a uniform policy of disciplinary action in the division and a standardization of the sentences. Both General Bell and the Acting Judge Advocate believe that this has been achieved, and after an examination of their records and further interviews, upon which I shall comment later, I concur in their views with reference to it.

7. Upon receipt of charges in which trial by general courts-martial was recommended, the charges together with a statement of the evidence and of the investigating officer, and the indorsement by the commanding officer were carefully considered, and in case of any doubt as to proper disciplinary action to be taken, personal investigation was made of the case by the Acting Division Judge Advocate before the charges were submitted to the commanding general for his decision. In this way, in a large number of cases, upon investigation there were disclosed conditions or circumstances which clearly showed that the case was one to be handled by an inferior court, and in that case such disposition was made of it.

8. Reports were received by the Acting Division Judge Advocate from the Division Surgeon, giving a list of men who had contracted venereal disease, and these cases were followed up throughout the division to see that the proper disciplinary action was taken as required in orders, and a complete record was kept of these cases. An investigation was then made to determine the source of the infection and a report made to the Chief of the Gendarmes for the Diekirch District, with whom there was complete co-operation. The method of handling the situation then was to have a warrant sworn out, the infected woman arrested and physically examined under the direction of the Luxembourg court, when, if found to be infected, she was committed to an institution for a period of months for cure. I talked with the chiefs of the gendarmes, both of the Diekirch District and of the Luxembourg District, the two districts comprising the Grand Duchy of Luxembourg, and they were both cordial in their expression of the co-operation given them by the military authorities, and both the Commanding General, G-2, and the Acting Division Judge Advocate spoke

highly of the co-operation given them by the civil authorities throughout the Grand Duchy.

9. The report of the summary cases, as given above and tabulated in the attached report, includes venereal cases, and the majority of the summary court cases I find to have been either venereal or short absence without leave cases. Of the general courts-martial cases tried there were three cases of men from the division who were absent without leave, also charged with larceny, and one of an officer belonging to the 113th Field Artillery.

10. All the general courts-martial cases, except the last one submitted, which had not yet been returned from our office, had been confirmed without comment by the office of the Acting Judge Advocate General, and there were no completed records to be forwarded to this office on April 25th, the day I left the division.

B.

11. With reference to the character of the discipline maintained in the division, the office of the Inspector General at General Headquarters tells me that it has been entirely satisfactory, and the Inspector of the Division, Colonel Keifer, advises me that it has been excellent, and the Commanding General spoke very highly of it. General Pershing also, in private conversation when I asked concerning it on the day of the final review by him of the division, spoke of it as one of the most competent, one of the best appearing and one of the best disciplined divisions in the A. E. F. Upon that day there were 165 Distinguished Service Crosses and Medals conferred upon officers and men, and the division took high rank in the actual fighting during hostilities. It would seem, therefore, that there is no reason to believe that the practical elimination of general courts and the comparatively short term sentences given for offenses within the division had in any way affected the discipline, but on the contrary that the policy justified itself. This policy was largely made possible, General Bell agreed, by an adequate investigation of the charges before reference for trial, a policy which he believes should be continued and increased. He is in sympathy with a recommendation to which I called his attention, that the staff Judge Advocate should be required to place this preliminary investigation in writing and forward it afterward with the record for the information of the reviewing office as to the reasons for referring the case to trial in the first instance and with a view to keeping track of the efficiency of the various staff Judge Advocates.

C.

12. In going over the records of the general courts I found that there have been no trials under the 75th article of war and of certain other classes of cases. They had been tried under the less serious articles rather than under those under which they might have been and would have been charged in some courts-martial jurisdictions. During Tuesday, Wednesday and Thursday, April 22, 23 and 24, I visited all of the various regimental and battalion headquarters throughout the division and talked with the various regimental and battalion commanders with reference to the discipline of their respective units and of the division as a whole. They all spoke highly of the discipline of the division as a whole and of their own troops. General Bell also suggested that I find out whether there was any dissatisfaction with the policy pursued because of failure to try by general court, in some cases, offenses upon which charges had been preferred with that end in view. Generally speaking, the commanding officers not only were satisfied but approved of the policy pursued. In two instances I found commanding officers who had preferred charges under the 75th article of war and who felt that the men should have been tried by general court for misbehavior before the enemy. Upon going into these particular cases further I found that they did not think that the failure to so try them had in any way affected the units to which they belonged, but they felt that in all fairness the men should have been tried for their misconduct. In general, however, all of the officers of the division believed in and felt that the policy which had been pursued had been effective and had promoted the morale of the division as a whole.

D.

13. As to whether or not there were any special conditions within the division which enabled this policy to be pursued rather than the one of large numbers of general courts and severe sentences, as practiced in some divisions, I could not find that there were any. The division is a National Guard division composed of the former units of the Illinois National Guard. Several of the regiments, notably the 122nd, 123rd and 124th Field Artillery, the 108th Engineers, and the 129th, 130th, 131st and 132nd Infantry being taken over practically intact. Some of these units had seen service on the Mexican border and had eliminated their undesirables before coming overseas. However, the division was double the size of such units and had suffered something like 8,000 casualties, the replacements coming from among

the drafted men, so that there was nothing to distinguish the division, so far as the necessity for disciplinary action was concerned, from the average division serving in the American Expeditionary Forces.

R. R. & C. SERVICE

14. In addition to the above conferences with reference to the general courts-martial work of the division, at the suggestion of General Bell I also looked into and examined the R. R. & C. service as conducted in the 33rd Division, with Major Harry F. Hamlin, Judge Advocate, as R. R. & C. officer.

15. The R. R. & C. service was organized in the 33rd Division on July 24, 1918. From the date to November 11, 1918, the office had supervision of all billeting, requisitions and claims within the divisional area. When the division took over part of the Verdun sector along the Meuse it was necessary to make a reconnaissance of the entire area for the purpose of checking up the available dugouts, water points and shelters. This required an inspection of practically the entire area up to the front lines. At this time the sector was under heavy shell fire and any reconnaissance involved more or less danger. I am informed this work was done for the R. R. & C. office by Major Hamlin of the Judge Advocate General's Department, and his assistant, Lieutenant Oliver J. Sheehy. In all movements of the troops the R. R. & C. officers went forward to make personal investigation and surveys of the billeting accommodations and sites for headquarters and battle P. C. When this work was completed the R. R. & C. officers returned to adjust claims in the area evacuated.

16. Upon the division's arrival in Luxembourg it was found that the units of the army of occupation which had preceded it had left numerous claims for requisitioned property, for damage done and the rent of billets. It was necessary for R. R. & C. officer to make many investigations and recommendations in the settlement of these claims.

17. The R. R. & C. regulations were drafted particularly for France. When the division took over the Luxembourg area it was necessary to recommend terms for contract relative to the rates for billets and damages to civilian property with the Luxembourg government. This was done by the R. R. & C. officer of the 33rd Division, and these recommendations were used as a basis for subsequent contracts with the Luxembourg government.

18. In a divisional area at the present time there are 62 acting town majors under the supervision of the R. R. & C. officer. During

the ten months of operation of the R. R. & C. service in the division it has settled and made recommendations in over 300 claims, involving sums, in some instances, as high as 45,000 francs. Thorough instructions at different times have been given to the acting town majors as to their dealings with civilians. As a result very cordial and friendly relations have been maintained with the people and the central government of Luxembourg. It is believed that all recommendations for the settlement of claims have been fair and just.

19. The experience of the Acting Division Judge Advocate as well as that of Major Harry F. Hamlin as R. R. & C. officer, and other officers attached to this office clearly shows that it should be a branch of the Judge Advocate General's Department, and that so far as possible the officers assigned in charge thereof should be officers commissioned in this department.

CIVIL AFFAIRS

20. The civil affairs of most of the divisions were in the hands of G-2, but in the case of the 33rd Division they were in charge of the Division Judge Advocate. Prior to the division closing up its affairs preparatory to leaving the area and turning it over to the 5th Division, I visited on Thursday, April 24th, with Colonel Stansfield, the acting Division Judge Advocate, the chief of the gendarmes in the Diekirch District and the prosecuting attorney there, and also the chief of the gendarmes and the prosecuting attorney in the City of Luxembourg District. There were no undisposed of matters, and in both cases the prosecuting attorneys expressed themselves as greatly pleased with the manner in which matters have been handled by the American army. The prosecuting attorney at Luxembourg City, Procureur d'Etat Victor Berg, stated that he greatly appreciated the co-operation given by the American officers in the administration of civil affairs; that while many of the German officers were polite to them that unnecessary friction had been created by their absolute dominance of all civil affairs and failure to take any account of or to confer with the local officials.

PERMITS TO LEAVE AREA

21. The question of permits to civilians to visit other areas or to cross the lines into Germany, Belgium or France, was also handled by Colonel Stansfield as Acting Division Judge Advocate. Per-

mits were issued for a month at a time, with photographs, descriptions, etc., attached, and the express purpose specified. Several hundred of these permits have been issued, principally to enable the inhabitants to look after their property in adjoining districts and countries. This matter is now being turned over to Colonel Makell, formerly of VI Corps, with headquarters at Luxembourg City.

CONCLUSIONS

22. It is believed that my visit to the 33rd Division as part of the Army of Occupation has been of distinctive advantage to me in visualizing the conditions under which the various questions have arisen which will be handled through my section.

23. Colonel Stansfield has, I understand, stated that he will be glad to be assigned to temporary duty in the Judge Advocate General's Department upon his return to the United States if his services are needed, and in view of the character of the work done by him as Division Judge Advocate and in charge of civil affairs, if the department is in need of his services, I believe that they can be used with advantage to the Government, and am enclosing for your information copy of a letter which he has forwarded, through channels, to the Judge Advocate General of the Army.

24. My tour of duty with the 33rd Division and my examination of their records and interviews with the various unit commanders have convinced me that a thorough investigation of the charges before reference for trial by competent representatives of this department, combined with a definitely formulated and announced policy on behalf of the commanding general, and a standardization of sentences, will result in greatly improving the administration of justice and the elimination of much recent criticism heard with reference to this administration.

REPORT OF GENERAL, SPECIAL AND SUMMARY COURTS-MARTIAL TRIALS

GENERAL COURTS-MARTIAL

Organization	—Convicted—				—Acquitted—				Total No. of Trials
	Jan.	Feb.	Mar.	Apr.	Jan.	Feb.	Mar.	Apr.	
129th Infantry	0	0	0	0	0	0	1	0	1
131st Infantry	0	0	2	0	0	0	0	0	2
132nd Infantry	1	0	0	0	0	0	0	0	1
108th Ammunition Train...	0	0	0	0	0	0	1	0	1
124th Field Artillery.....	0	0	0	0	0	0	0	1	1
	<u>1</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>1</u>	<u>6</u>

SPECIAL COURTS-MARTIAL

129th Infantry	3	5	0	4	0	0	0	0	12
130th Infantry	0	0	2	4	0	0	0	1	7
131st Infantry	1	0	2	3	1	0	0	0	7
132nd Infantry	3	6	0	0	0	1	0	1	11
122nd Field Artillery.....	1	1	5	4	0	0	0	3	14
123rd Field Artillery.....	15	0	0	0	3	0	0	0	18
124th Field Artillery.....	0	0	0	1	0	0	0	0	1
122nd Mach. Gun Bat.....	0	0	0	0	1	0	0	0	1
123rd Mach. Gun Bat.....	1	1	0	1	0	0	0	0	3
124th Mach. Gun Bat.....	0	0	2	0	0	0	0	0	2
108th Engineers	0	1	8	5	0	0	3	0	17
108th Field Sig. Bat.....	0	0	0	0	1	0	0	0	1
Hdqrs. Train and M. P....	0	0	0	0	0	0	0	0	0
108th Ammunition Train...	1	0	6	0	0	0	0	0	7
108th Supply Train.....	2	2	0	0	1	0	2	0	7
108th Sanitary Train.....	0	0	0	0	0	0	0	0	0
Bakery No. 339.....	0	0	0	0	0	0	0	0	0
58th Art. Brg. Hdqrs.....	0	0	0	0	0	0	0	0	0
66th Inf. Brg. Hdqrs.....	0	0	0	0	0	0	0	0	0
65th Inf. Brg. Hdqrs.....	0	0	0	0	0	0	0	0	0
Hdqrs. 33rd Div. and Troop	0	0	0	0	0	0	0	0	0
	<u>27</u>	<u>16</u>	<u>25</u>	<u>22</u>	<u>7</u>	<u>1</u>	<u>5</u>	<u>5</u>	<u>108</u>

SUMMARY COURTS-MARTIAL

129th Infantry	21	17	8	14	2	2	1	2	67
130th Infantry	8	12	11	2	2	0	0	0	35
131st Infantry	0	4	6	2	0	7	1	0	20
132nd Infantry	16	8	9	3	6	1	1	1	45
122nd Field Artillery.....	25	8	8	6	0	10	1	0	58
123rd Field Artillery.....	7	14	4	1	2	0	0	0	28
124th Field Artillery.....	4	12	6	2	0	0	3	0	27
122nd Mach. Gun Bat.....	2	6	0	2	1	0	0	0	11
123rd Mach. Gun Bat.....	0	14	1	2	0	0	1	0	18
124th Mach. Gun Bat.....	0	2	1	1	0	0	1	0	5
108th Engineers	10	3	19	8	1	0	4	1	46
108th Field Sig. Bat.....	2	2	3	2	0	0	0	0	9
Hdqrs. Trains and M. P..	3	6	21	1	0	0	0	0	31
108th Ammunition Train...	14	2	5	1	0	0	0	0	22
108th Supply Train.....	1	12	0	1	0	3	0	0	17
108th Sanitary Train.....	0	11	7	1	0	0	0	0	19
Bakery Co. No. 339.....	0	0	0	2	0	0	0	0	2
58th Art. Brg. Hdqrs.....	0	0	0	0	0	0	0	0	0
66th Inf. Brg. Hdqrs.....	2	1	0	0	0	0	0	0	3
65th Inf. Brg. Hdqrs.....	0	0	0	0	0	0	0	0	0
Div. Hdqrs and Troop.....	1	0	0	0	0	0	0	0	1
	<u>116</u>	<u>134</u>	<u>109</u>	<u>51</u>	<u>14</u>	<u>23</u>	<u>13</u>	<u>4</u>	<u>464</u>