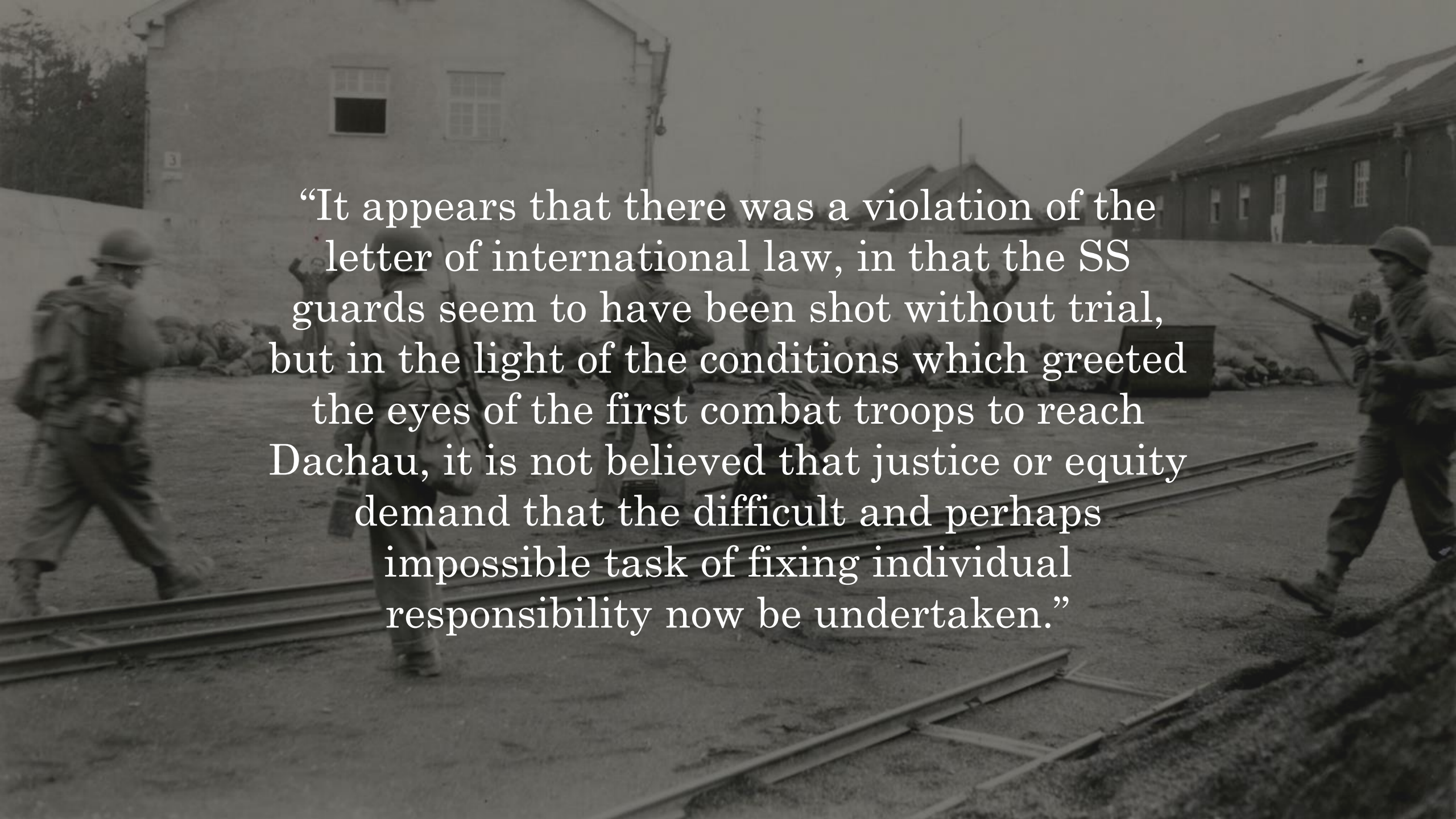
A black and white photograph of a brick building with a large sign that reads "WAR CRIMES BRANCH JUDGE ADVOCATE SECTION H.Q. THIRD UNITED STATES ARMY". Below the main sign is a smaller sign that says "COURT A" with a circle containing the letter "A". To the right of the entrance is a sign with the number "230". A large crowd of people, including men in military uniforms and women in civilian clothing, is gathered in front of the building. The scene is set outdoors on a paved area.

WAR CRIMES BRANCH
JUDGE ADVOCATE SECTION
H.Q. THIRD UNITED STATES ARMY

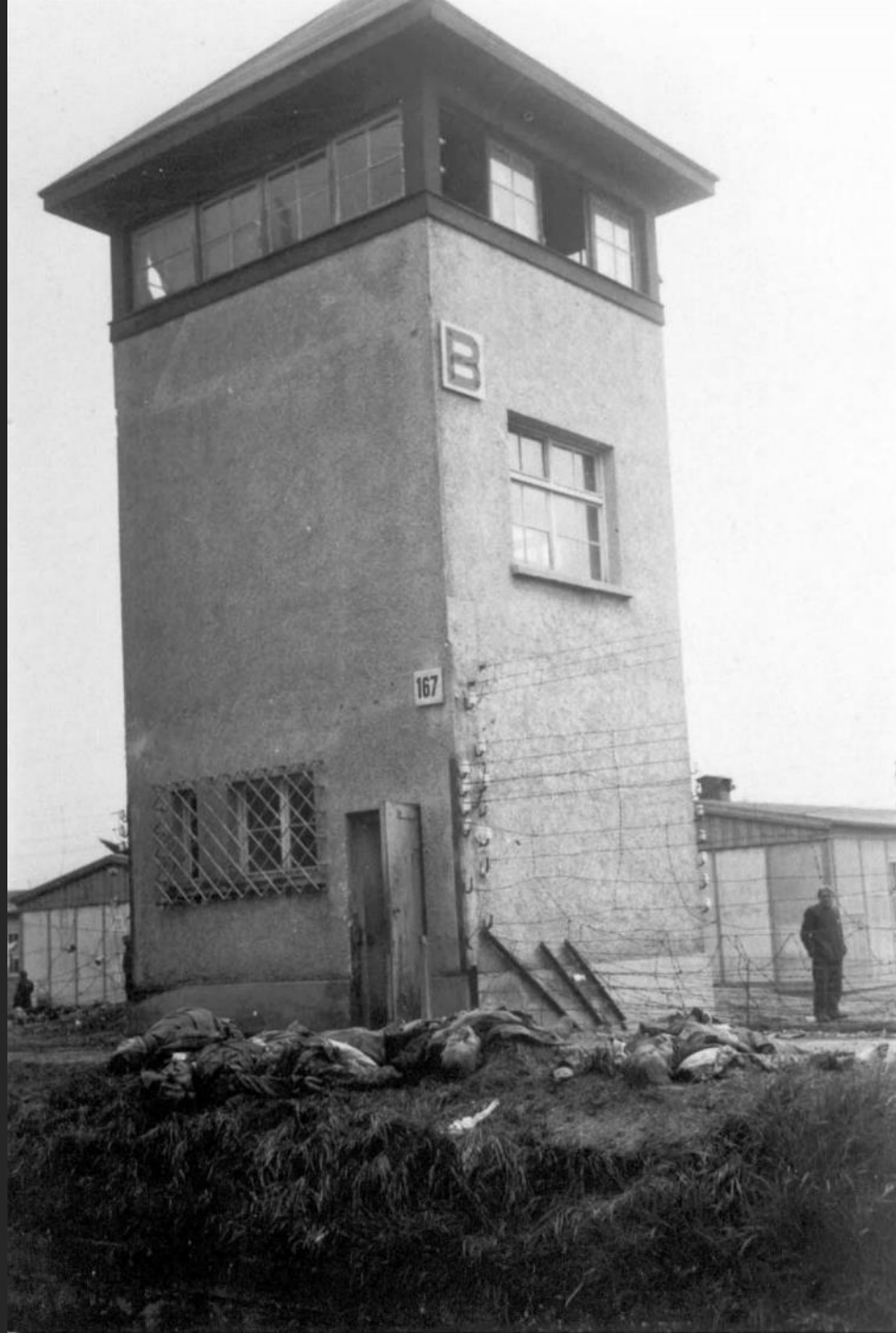
To Fight and Win The Nation's Wars

American War Crimes and the Failure of Military Justice
In the Second World War

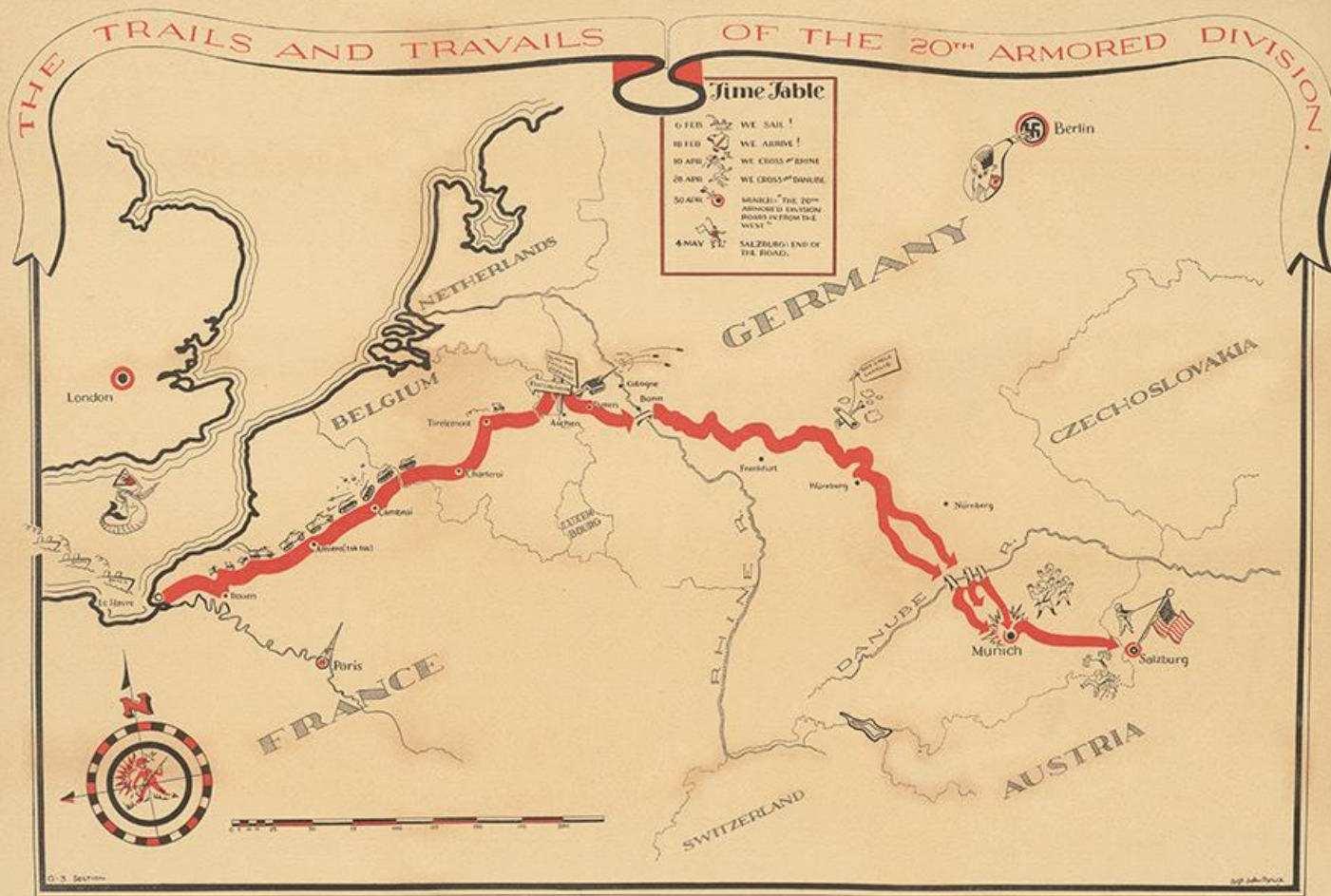


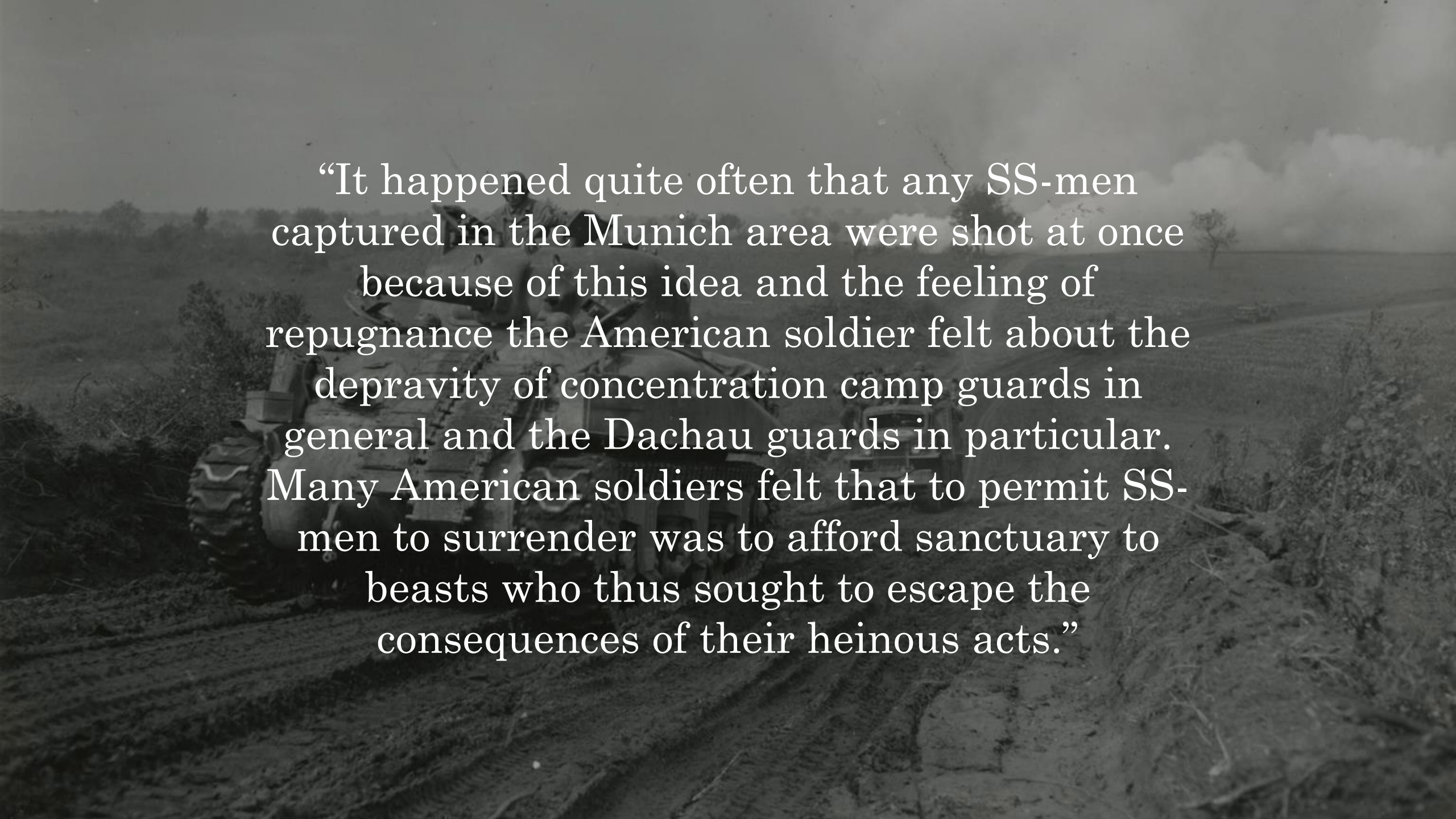
A black and white photograph showing American soldiers in M1 helmets and combat uniforms walking through a camp. In the background, there are several buildings, including a light-colored one with windows on the left and a darker, longer one on the right. The ground is dirt with some tracks or rails visible. The text is overlaid in the center of the image.

“It appears that there was a violation of the letter of international law, in that the SS guards seem to have been shot without trial, but in the light of the conditions which greeted the eyes of the first combat troops to reach Dachau, it is not believed that justice or equity demand that the difficult and perhaps impossible task of fixing individual responsibility now be undertaken.”







A black and white photograph of a tank in a field. The tank is positioned in the center-left of the frame, facing right. It has a turret and a main gun barrel. The background is a hazy, open field with some trees and a large plume of smoke or clouds in the distance. The overall tone is somber and historical.

“It happened quite often that any SS-men captured in the Munich area were shot at once because of this idea and the feeling of repugnance the American soldier felt about the depravity of concentration camp guards in general and the Dachau guards in particular. Many American soldiers felt that to permit SS-men to surrender was to afford sanctuary to beasts who thus sought to escape the consequences of their heinous acts.”

Century Sentinel

Vol. II No. 73

Somewhere in France

Saturday, Feb. 24, 1943

RAIDERS USE FLAME-THROWER

'Artificial Moon' Helps Co. E Stage A Lightning Raid

Jerries on that Hill probably thought it was all a hellish nightmare. First there was no moon. Then suddenly there was. And with the moon came a torrent of hot, sharp, steel, so hot and sharp that before the night again became black 10 Jerries were dead and 15 wounded.

What happened was a lightning raid by a platoon from Co. E, 399th Inf. made under the pale glow of the Army's new artificial moonlight.

Led by Lt. Earl L. Cross, of Elliott City, Md., the 24-man raiding party got off to a bad start when a doggie, slopping through the mud close to another outfit's position, stumbled and set off a trip flare. But Jerry didn't guess what was up, so the Easy Co. raiders continued eastward to within 200 yards of a thick woods, where the Krauts were dug in.

Here, Lt. Cross sent a squad, led by Sgt. Malcolm MacGregor, of Eugene, Ore., to take up positions near a hedgerow 100 yards to the north. Another squad, led by Pfc Samuel J. Fryer, of Hamonton, N. J., went 250 yards south to give supporting fire.

With the remaining 10 men, split



Sgt. Horace T. West And His Faithful "Mabel"

Photo by Pfc. Vernon Miller, Staff Photographer

Sniper Picks Off 17 Krauts To Square Things for 'Kid'

Sgt. Horace T. (for Theodore) West, who looks for all the world like a character out of a Mauldin cartoon, squatted on a mound near the platoon CP less than 300 yards from the 60-foot ditch he calls the «Panama Canal» screwed up his mouth and worked his false teeth back into a more comfortable position.

«I got those Krauts for the kids» he announced quietly. «I reckon I still owe him a couple more before I square up that deal»

Pillbox Reduced In Daring Raid by 399th Inf. Squad

Two daring raids in the early hours of the same morning on separate Jerry strong points by different parties from Co. B, 399th Inf., netted Lt. Harry Flanagan's doggies five dead Krauts, several wounded, a partially neutralized Jerry sub-machine field, a silenced German machine-gun, a reduced pillbox.

They started it, says Oklahoma sniper with 130 nazis to credit

By ROBERT VERMILLION.

WITH SEVENTH ARMY IN ALSACE (UP). Sgt. Horace Theodore West squinted along the barrel of his Springfield rifle with the telescopic sights and made a minor adjustment.

The weapon was spotlessly clean. There were no notches for the 10 Germans he killed with it to boost his official total to 130 enemy dead since the Sicilian campaign.

"A man shouldn't be too proud of killing another man," he said. "I allow it ain't exactly right. But the Germans started it."

West hails from Wagoner, Okl. In the nearby Cookson hills he used to shoot squirrels and rabbits on the run.

He has been shooting Germans, running, sitting and standing, since his old division, the 45th, landed in Sicily July 10, 1943.

West, father of two children, looks older than his 35 years. His hair is gray and

thin at the front. His skin is tanned the color of a smoked ham.

As I talked to him at a battalion command post he fiddled with the telescopic sight, embarrassed by the attention but proud of his skill.

"I reckon I must have killed around 120 in Sicily," he said. "But that was close fighting. The killing in Sicily didn't take skill as much as fire power and most of the time I was using a tommy gun."

In the last month in the Alsace, he has killed 10 more with his rifle.

West missed combat in Italy because he was assigned to the 100th division as a rifle company headquarters handyman.

Explaining how he became a sniper in this outfit, West said:

"Coming up here on a train from south France, I rode with a young boy I got to like. I told him as much as I knew about war—the right and wrong things to do.

"'Bud,' I told him, 'never get out of a hole once you've got a good one. Do that

and a Jerry sniper has done got you.'

"Well, I guess the kid forgot. About a month ago he got out of his hole and sat beside it—and there was another gold star mother back in the United States.

"I didn't know about it until that afternoon when the captain pointed to a rifle, with telescopic sights, leaning against a tree. It was the kid's rifle.

"'West,' the captain says to me, 'can you shoot that rifle?'

"'I reckon so,' I told him.

"Then he told me about this boy and it went plumb against my liver.

"I talked to the boy's buddy, found out where he had been sitting and how he had been hit. I figured awhile and decided the sniper must be in a tree about 300 yards away.

"I just sat and watched that spot until I saw something move. Thru the sights I saw a Jerry standing behind a stump. I killed him. The captain let me keep that rifle."

the flame-thrower fell short of the target and went out of commission.

Milwaukeean Jailed For Reich Massacre; Blame Hate Lessons



Looking at a photograph of Robert Schneeweis are his wife, Fannie, and their two children, Carole, 3 (left), and Robert Jr., 17 months old.

Sentinel photo by Tony Neuman

Pardon Fight Begun for Young Army Officer

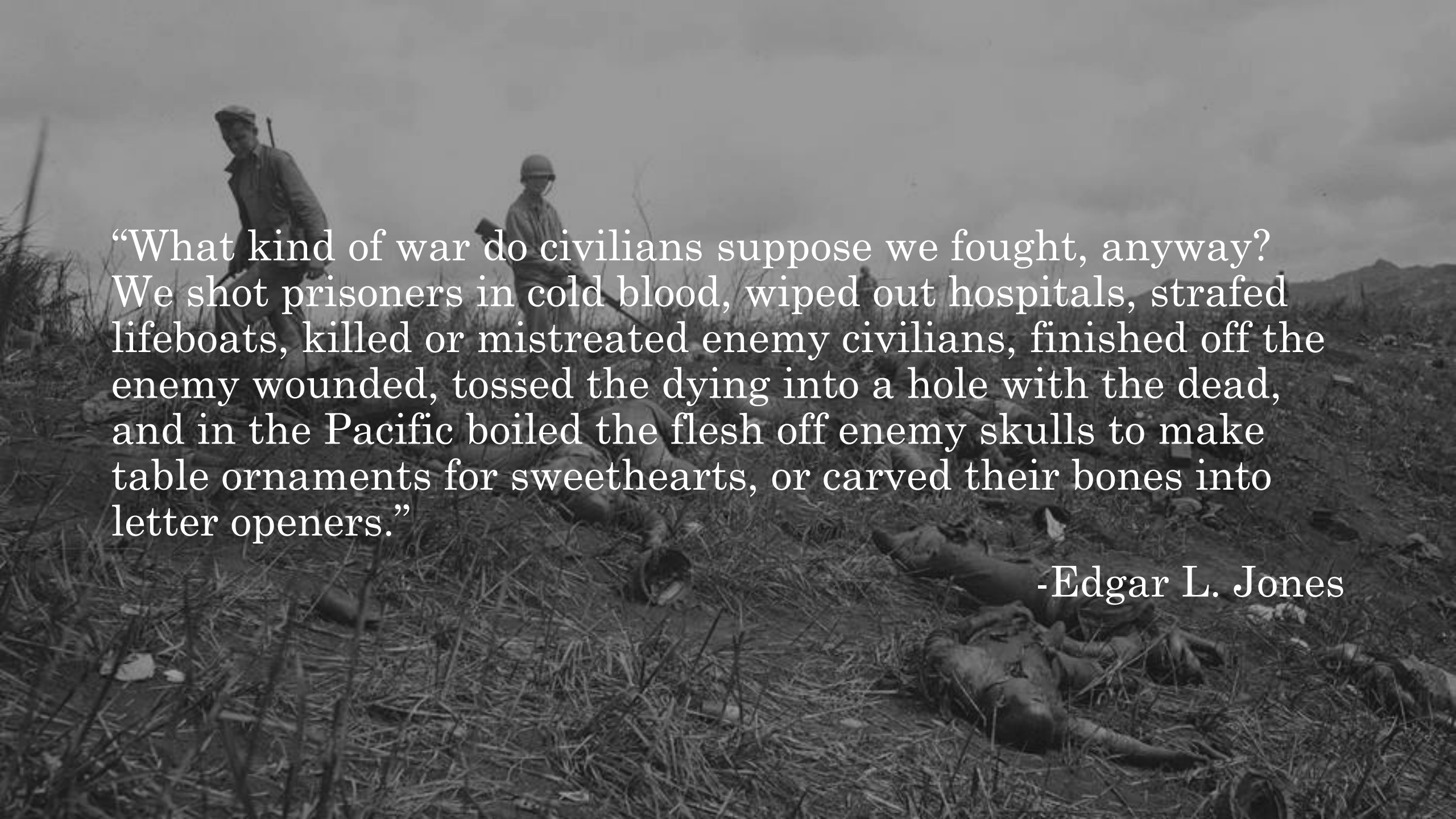
'I'd Have Crawled Back From Texas'



No dream last night—as it has been for three long years—Robert Schneeweis sat in his own kitchen last night at 2727 N. 5th St., with

Fannie, his wife, to serve him, and Carole and Robert Jr. to snuggle up to him.

Sentinel photo.



“What kind of war do civilians suppose we fought, anyway? We shot prisoners in cold blood, wiped out hospitals, strafed lifeboats, killed or mistreated enemy civilians, finished off the enemy wounded, tossed the dying into a hole with the dead, and in the Pacific boiled the flesh off enemy skulls to make table ornaments for sweethearts, or carved their bones into letter openers.”

-Edgar L. Jones



IT'S V-E DAY!

Last German Units Yield

Remember Pearl Harbor!

Truman Acting
On Pole Arrests

5¢

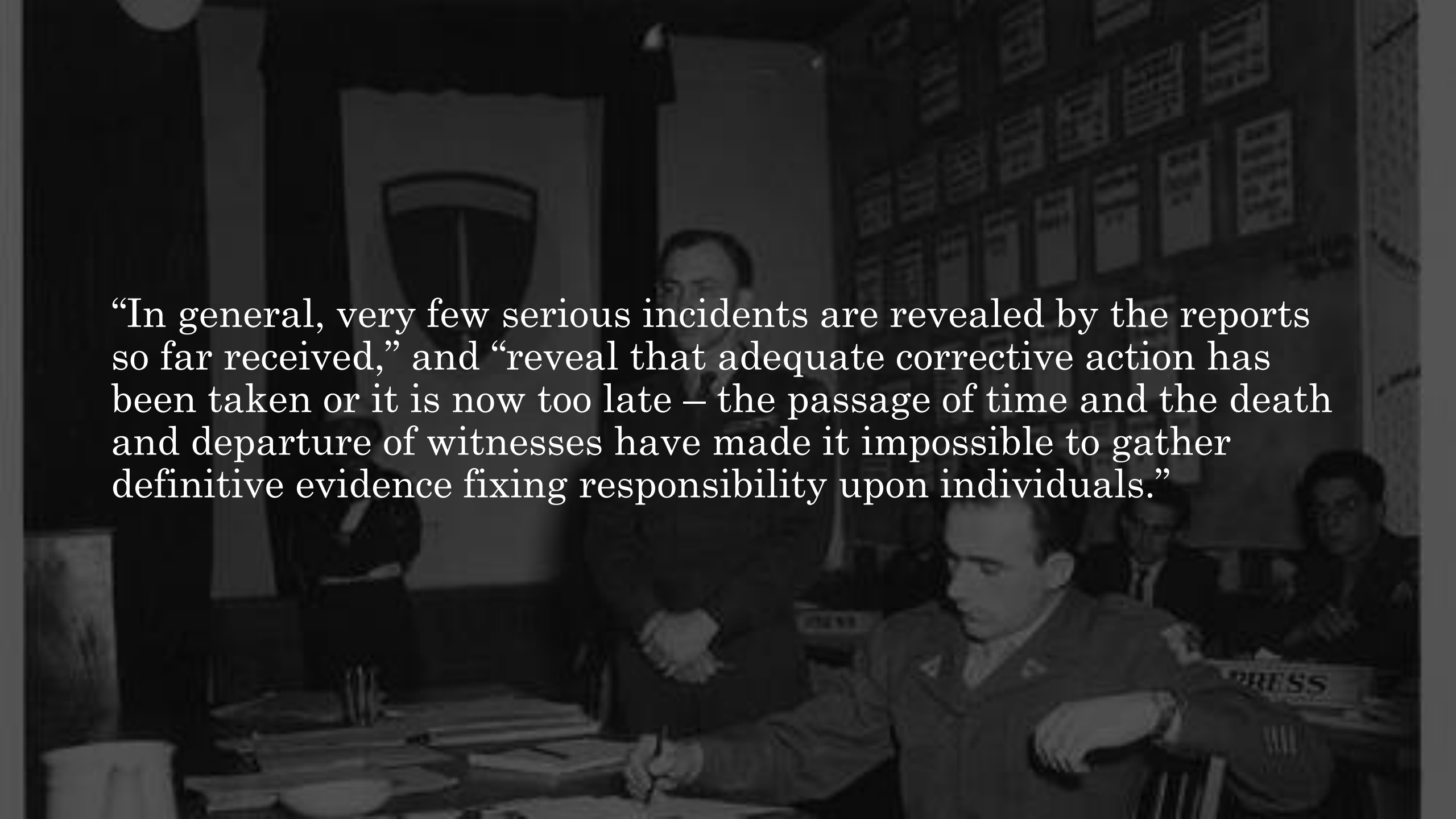
Journal of the American People

EXTRA






“You will forthwith cause a thorough investigation to be made into whether enemy prisoners of war have been killed or otherwise mistreated by members of your command and whether instructions have been given leading to such treatment or practices have been condoned and take disciplinary action where appropriate.”



“In general, very few serious incidents are revealed by the reports so far received,” and “reveal that adequate corrective action has been taken or it is now too late – the passage of time and the death and departure of witnesses have made it impossible to gather definitive evidence fixing responsibility upon individuals.”



“Numerous reports [of] serious violations are adumbrated by rumor and ‘general impression’ among men interviewed, these are in the main grossly exaggerated, part of the folklore of war – isolated incidents that have been magnified and multiplied in the retelling.”



Failings of the Eisenhower Report

1. Did not account for demobilization.
2. Relied on units to self-police.
3. Avoided dealing with the failure of the military justice system.

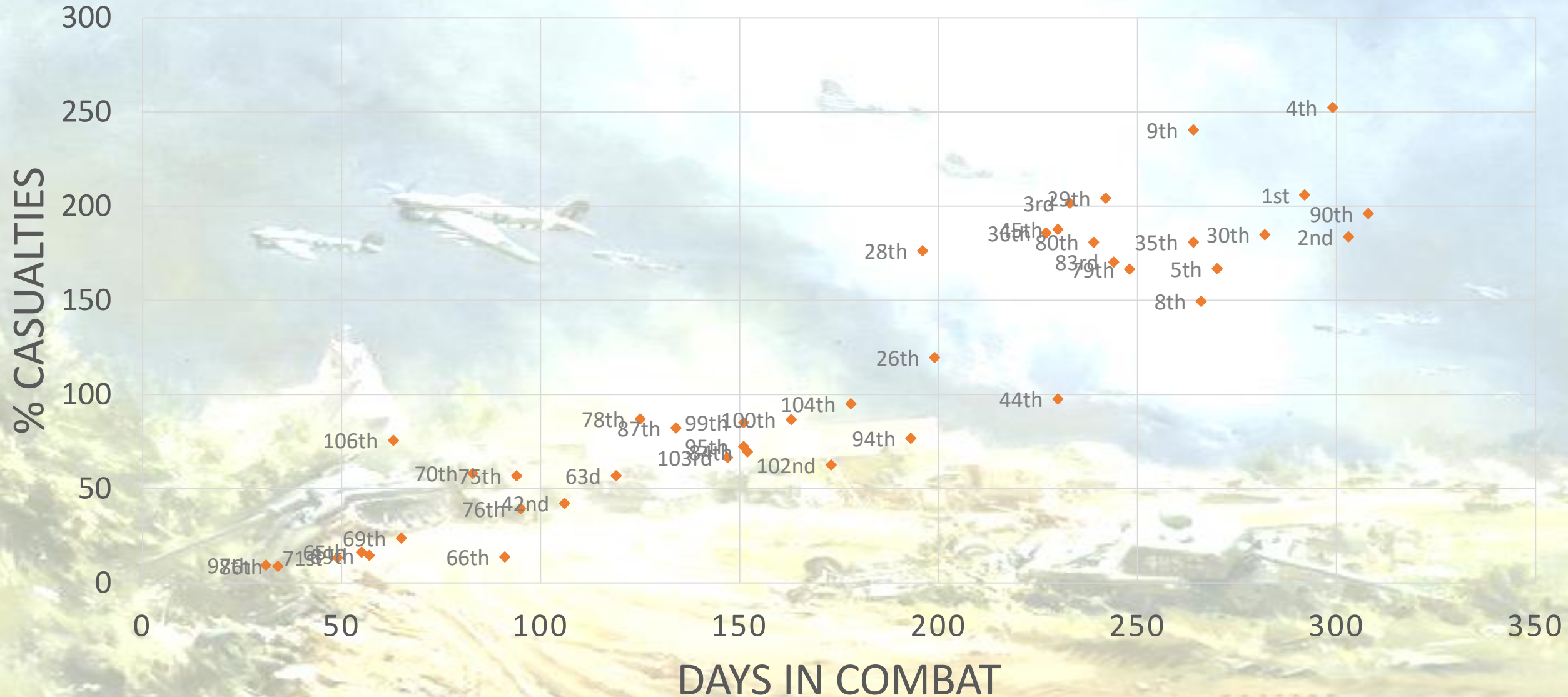


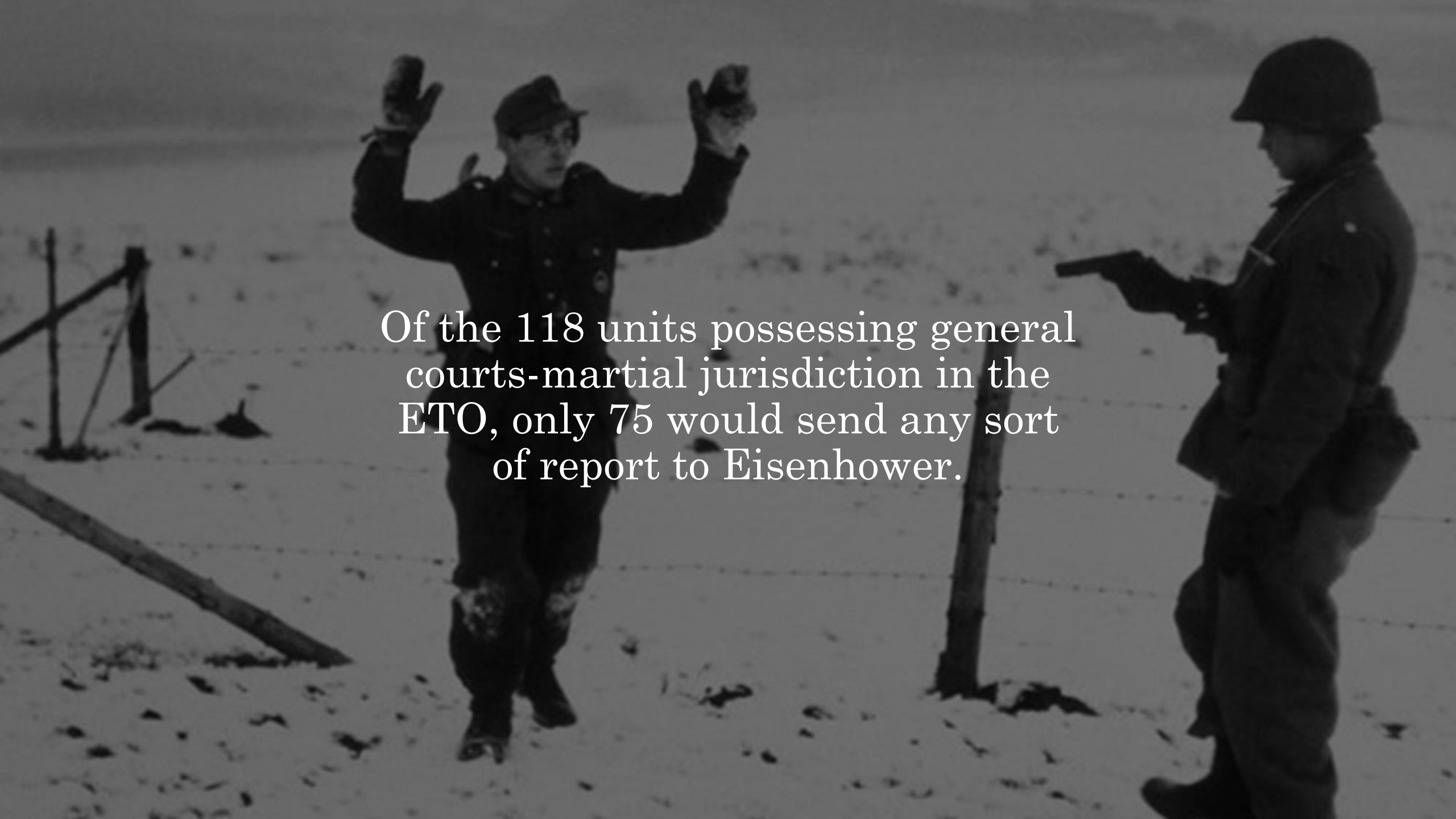
Effects of Demobilization

1. Beginning in 1944 the army rotated 1% of troops per month or about 15% of the army's total strength by V-E Day.
2. The average division would see 6,100 men demobilized between V-E Day and July 1945, about 43% of their allotted manpower.
3. One army, three corps, and eleven divisions disbanded by November of 1945.

INFANTRY DIVISION CASUALTIES

ETO WW2



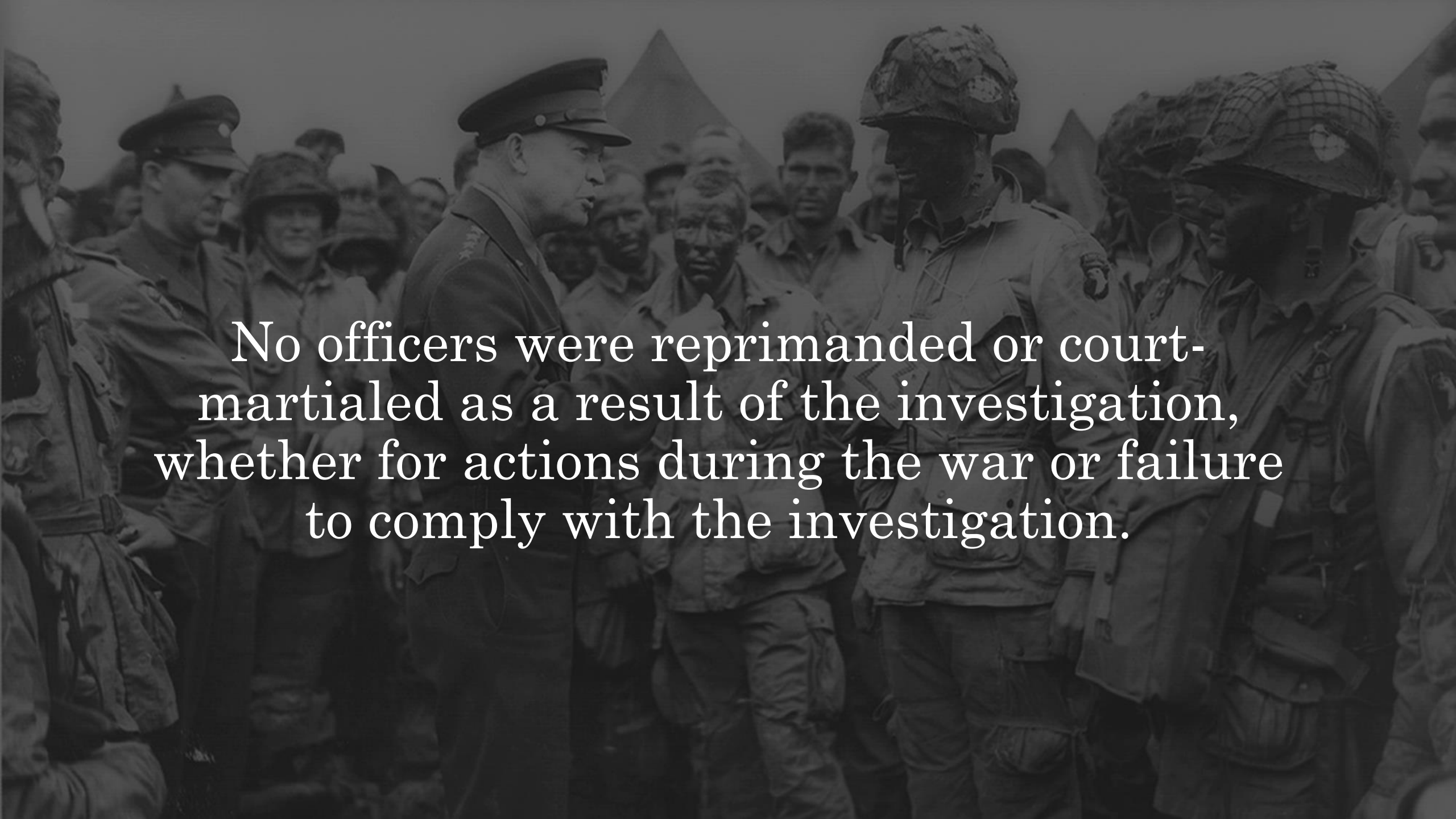
A black and white photograph showing a man in a military uniform, possibly a pilot, with his hands raised in a gesture of surrender or protest. He is standing in front of a barbed wire fence. To his right, a soldier in full combat gear, including a helmet and a rifle, stands behind the fence, looking towards the man. The background is a flat, open field under a cloudy sky.

Of the 118 units possessing general courts-martial jurisdiction in the ETO, only 75 would send any sort of report to Eisenhower.



The Failure of Military Justice

- Nine reported courts-martial for prisoner killing.
- Three resulted in “unjustified acquittals” by the army’s own reckoning.
- Two more had sentences of less than five years.
- Two more had no information whatsoever provided about the nature or outcome of the case.
- Four units with known, serious violations resulting in courts-martial failed to report them.

A black and white photograph showing a military officer in a peaked cap and uniform, standing and speaking to a group of soldiers. The soldiers are wearing combat uniforms and helmets, some with camouflage patterns. The officer is in the foreground, slightly to the left, gesturing with his hand. The soldiers are standing in a line, listening to him. The background is slightly blurred, showing more soldiers and what appears to be a tent or a large structure.

No officers were reprimanded or court-martialed as a result of the investigation, whether for actions during the war or failure to comply with the investigation.



Failings of the Report

1. The army did not know how many incidents of prisoner killing had occurred during the war.
2. The army had not systematically investigated or punished allegations of such conduct during the war.
3. After the war's end it was not possible to correct these defects, and any effort would be politically disastrous.

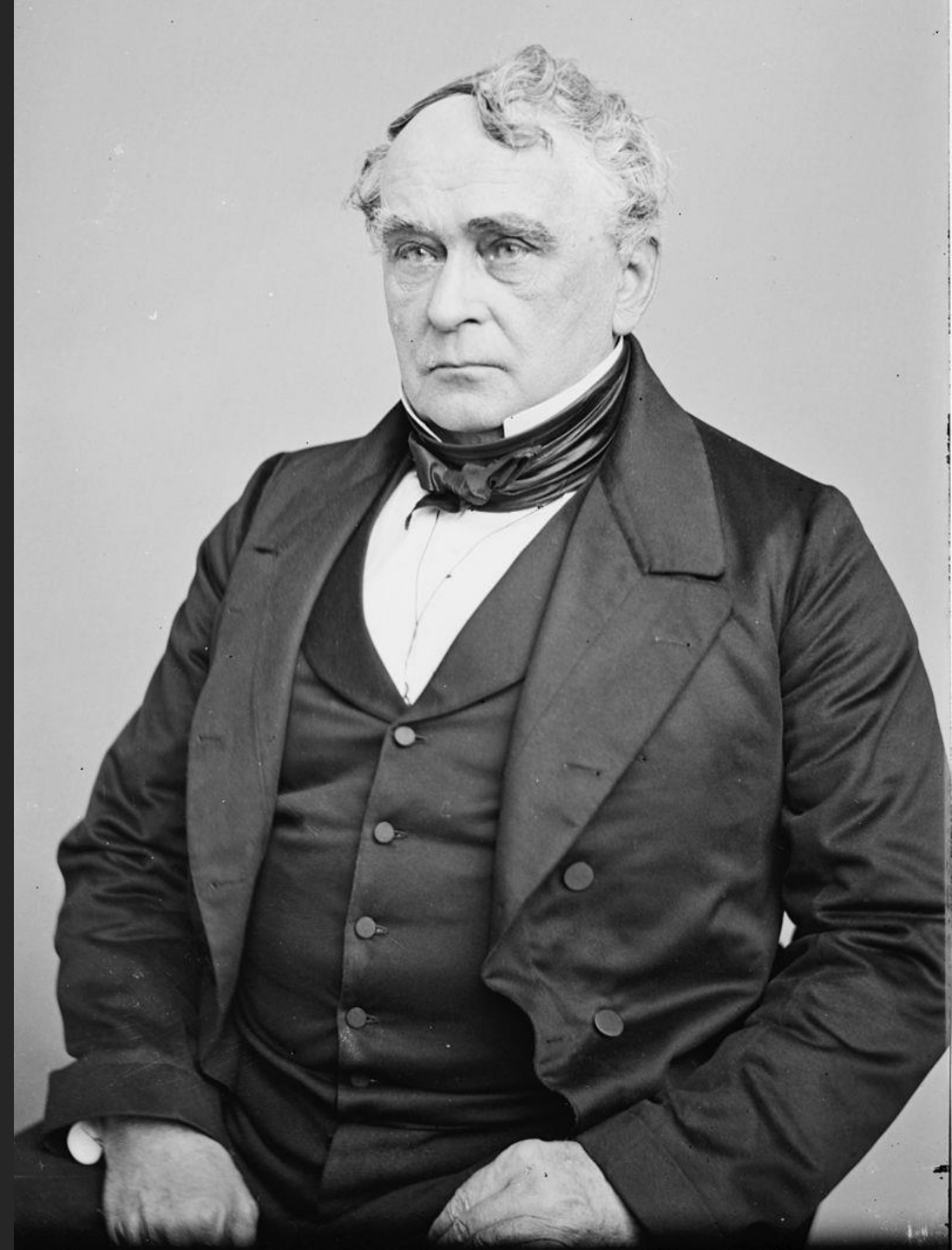


Why Didn't the Army Know
How Often its Troops Committed War Crimes?



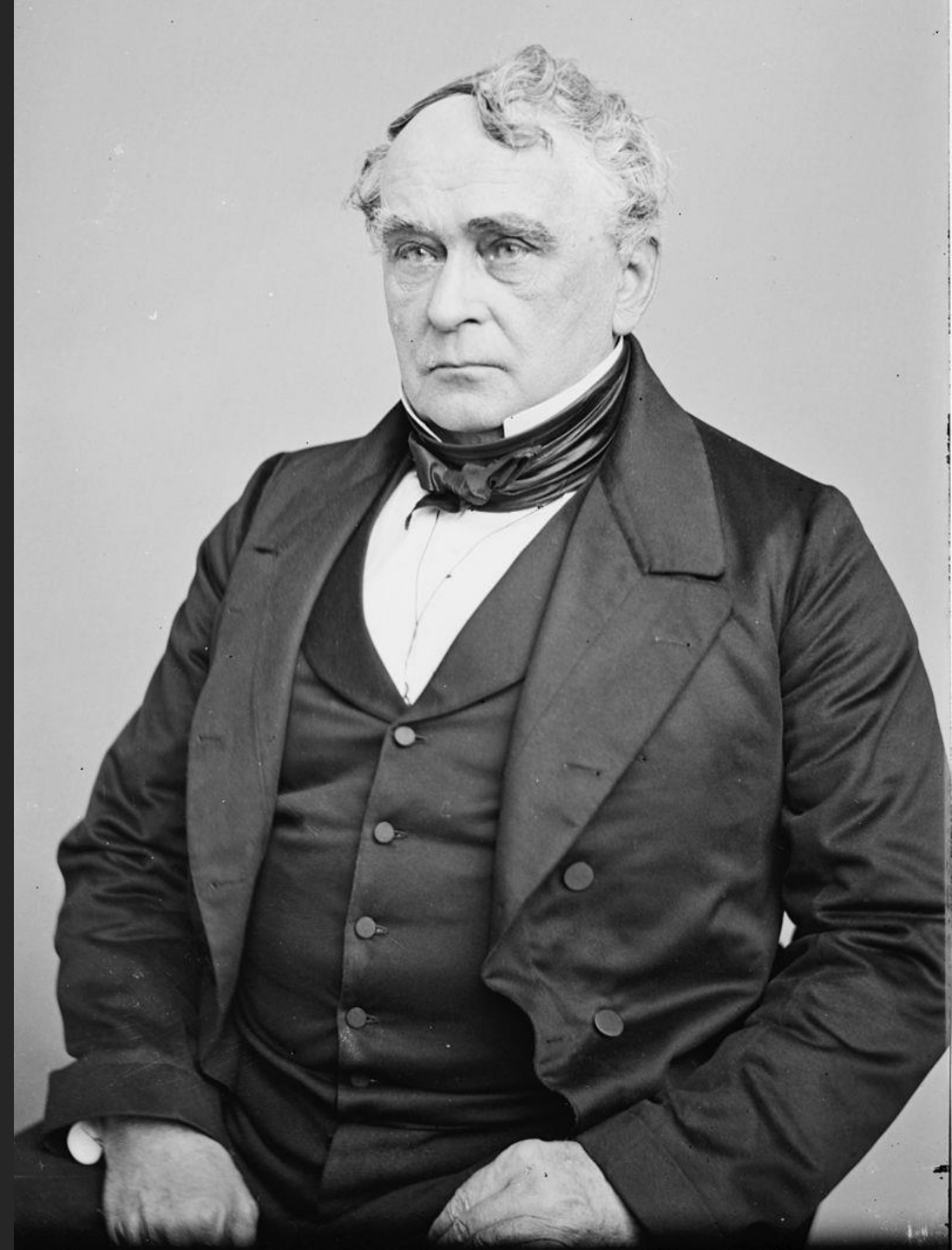
The Lieber Code

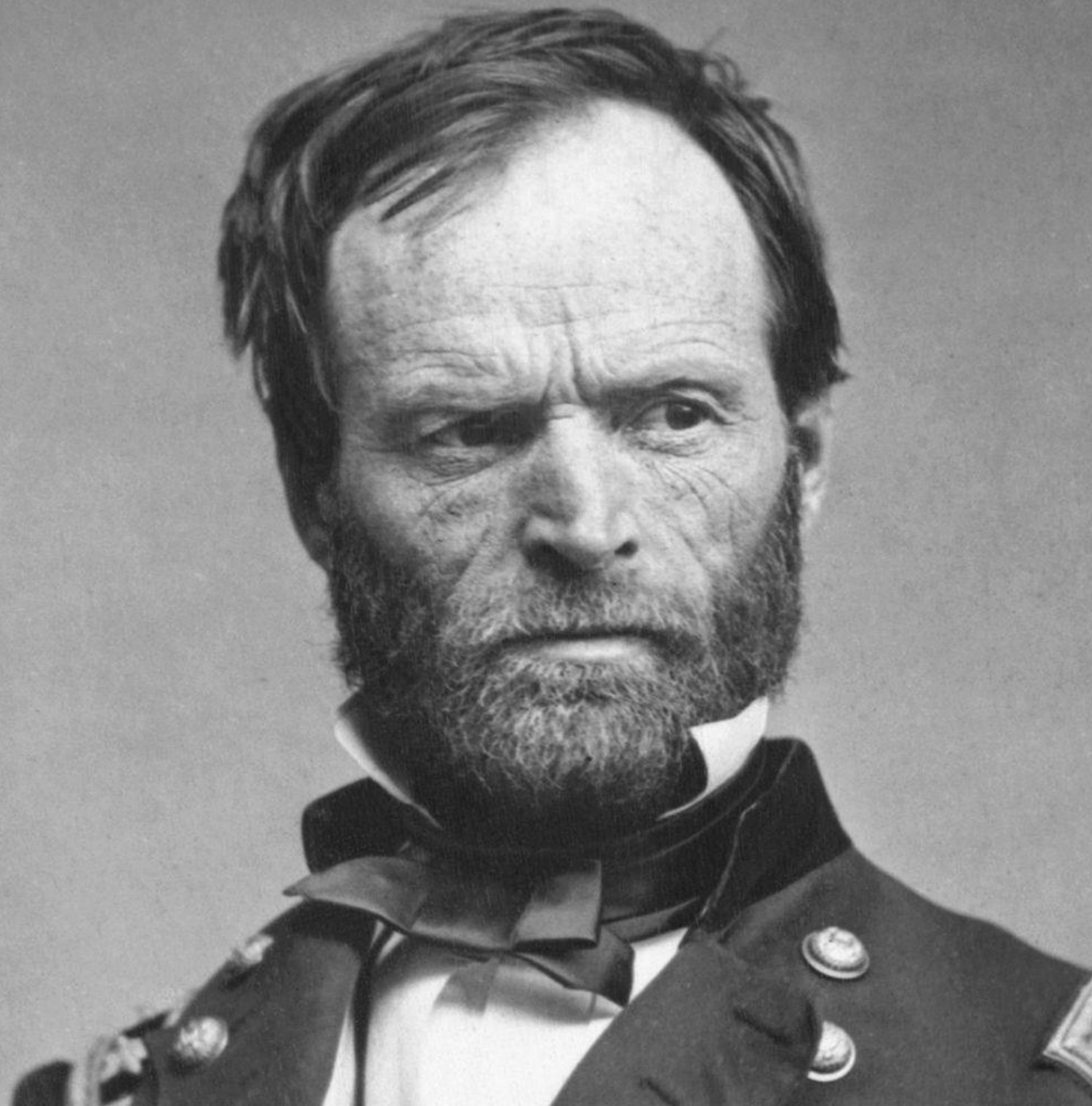
- Prisoners or hostages could be subject to execution as reprisal.
- Those giving no quarter received none.
- Members of enemy units found to give no quarter could be executed for up to 72 hours after capture.
- Guerillas and partisans could be shot without trial.
- Commanders could refuse quarter if they deemed such action a military necessity.



The Lieber Code

- Did not envision war crimes trials as a common mechanism for deal with violations of the laws of war.
- Saw such violations not as individual crimes but as offenses of one state against another.
- Did not require mechanisms to affix individual responsibility for criminal conduct.





“The object of civil law is to secure to every human being in a community all the liberty, security, and happiness possible, consistent with the safety of all. The object of military law is to govern armies composed of strong men, so as to be capable of exercising the largest measure of force at the will of the nation. These objects are as wide apart as the poles [...]. An army is a collection of armed men obliged to obey one man. Every enactment, every change of rules which impairs the principle weakens the army, impairs its values, and defeats the very object of its existence. All the traditions of civil lawyers are antagonistic to this vital principle [...].”

“I contend ... that the existing system of Military Justice is un-American, having come to us by inheritance and rather witless adoption out of a system of government which we regard as fundamentally intolerable; that it is archaic, belonging as it does to an age when armies were but bodies of armed retainers and bands of mercenaries; ... that it has ever resulted, as it must ever result, in such injustice as to crush the spirit of the individual subjected to it, shock the public conscience, and alienate public esteem and affection from the army that insists on maintaining it.”



“The court-martial tries a man not only for the military aspect involved in his act; it tries him for the violation of the law of the land resulting from that act. For instance, if a soldier commits homicide, he is tried, not, as we used to think, for his act, in so far as it is prejudicial to the military establishment. The court-martial passes upon that unlawful homicide and every issue involved in it just as exactly as, and concurrently with, a district court of the United States or any other trial court.”



Ansell-Crowder Affair

- Started to professionalize military justice.
- Added “Law Members” to courts-martials, first officers at least nominally required to have legal training.
- Created the Board of Review and a formal appeals process.
- Began to limit the power of commanders in their control of courts-martial.



Ansell-Crowder Affair

- Did not dramatically change military law enforcement.
- MPs still few and overworked.
- CID shuttered after WWI.
- JAGs too few for duties, two for Inf. Div., one per Arm. or Abn.



Leipzig Trials

- First serious effort at a post-war war crimes tribunal.
- Sought to bring more than 1,000 German war criminals before a court.
- Considered trying the Kaiser.
- Failed utterly, Germans refused to prosecute and politically Weimar could not survive expansive trials.



Geneva Convention of 1929

- Dramatically expanded protections for prisoners of war.
- Functionally ended the reprisal system, prisoners could no longer be executed in reprisal.
- Forbade refusal of quarter.
- U.S. Army adopted these changes in their 1934 Rules of Land Warfare manual.





Moscow Declaration 1943

- Formally declared Allied Commitment to war crimes trials as the mechanism for dealing with German atrocities.
- Came about because of the increasing impossibility of reprisals given Nazi viciousness and unfavorable number of Allied prisoners.

A black and white photograph of a large crowd of people, mostly in military uniforms, gathered in front of a building. The building has a large sign that reads "WAR CRIMES BRANCH" and "JUDGE ADVOCATE SECTION". Below this, it says "HQ THIRD UNITED STATES ARMY". A smaller sign above the entrance says "COURT A". The crowd is dense, and the scene appears to be from the mid-20th century.

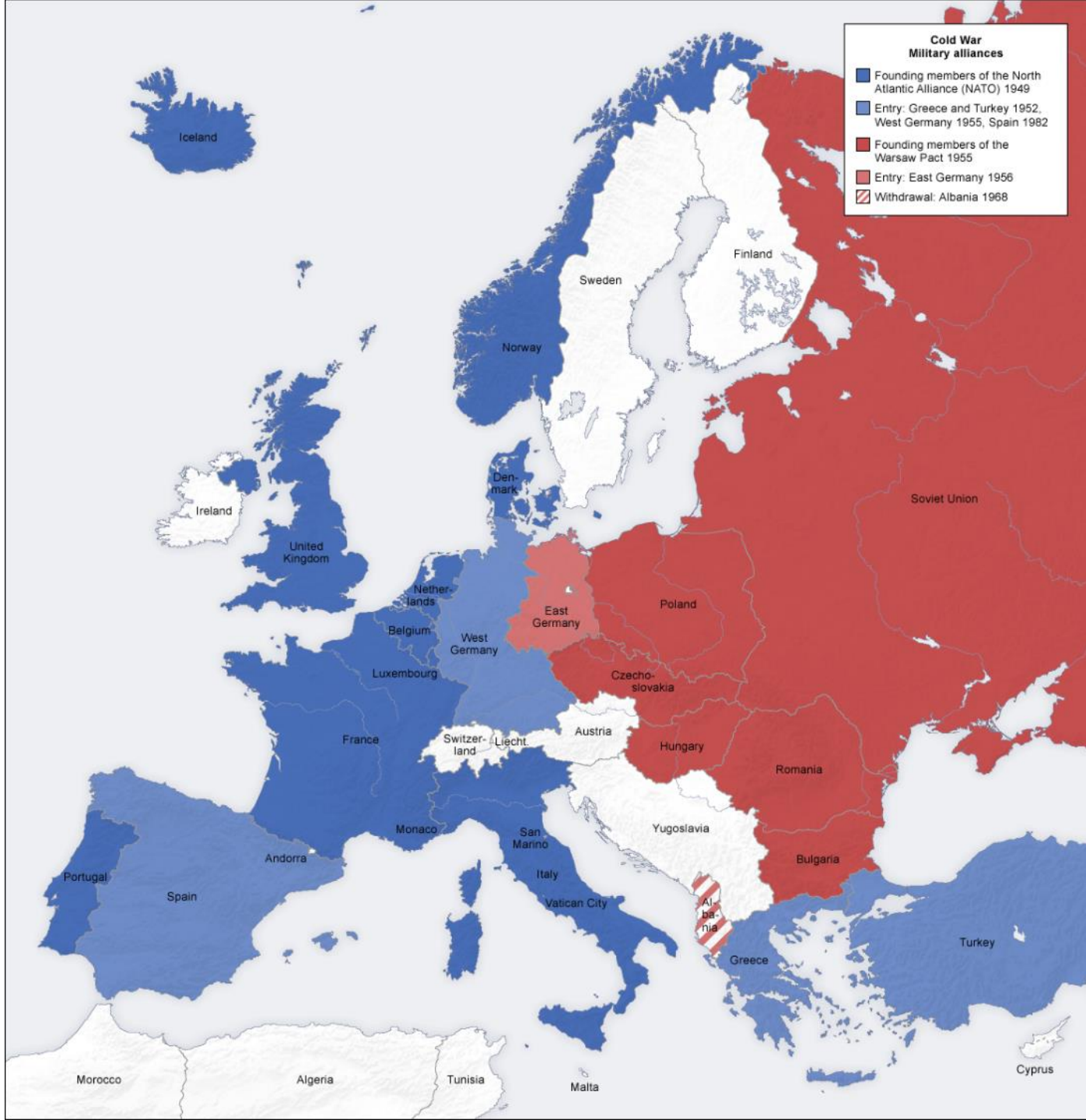
The Failure of Military Justice

- These changes saw almost no change in the army's manpower, training, or structure.
- MPs and trained criminal investigators were too few to adequately perform their duties.
- There were not enough trained judge advocates to handle highly complex and technical war crimes cases.
- Commanders were left to police themselves and their subordinates and did not do so with any great enthusiasm.

A black and white photograph of a crowd gathered outside a building. The building has large signs that read 'WAR CRIMES BRANCH' and 'JUDGE ADVOCATE SECTION'. Below these, smaller text reads 'HQ THIRD UNITED STATES ARMY'. A sign above the entrance says 'COURT A'. The crowd consists of many people, some in military uniforms and others in civilian clothing, standing in front of the building. The scene is set outdoors on a paved area.

The Failure of Military Justice

- Admitting these facts was not politically possible with the Nuremberg trials approaching.
- Tempers were still too hot for an objective assessment of American conduct, particularly given the hideousness of the Nazi and Japanese regimes.
- Cold War politics made focusing on war crimes increasingly counter-productive.





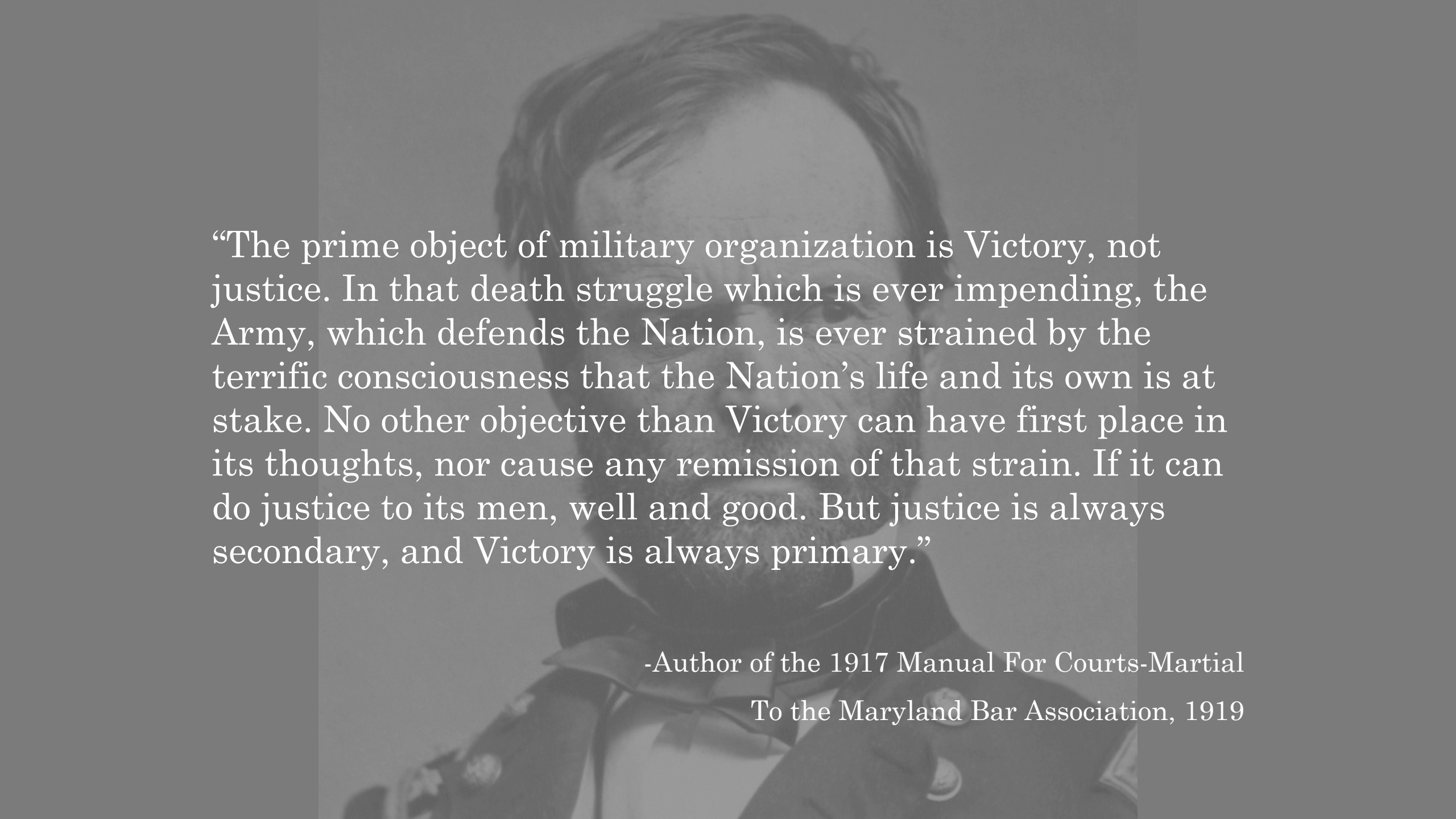
The Himmelrod Memorandum and the Formation of the Bundeswehr

- Release of all German soldiers convicted of war crimes.
- An end to the "defamation" of the German soldier, including the SS.
- The German government would need to take "measures to transform both domestic and foreign public opinion."



No Victor's Justice

- By 1948 the U.S. government had ceased active prosecution of German war criminals, including extraditing suspects to U.N. War Crimes Commission Countries
- By 1953 all German war criminals in U.S. custody were eligible for parole.
- By 1956 all members of Kampfgruppe Pieper responsible for the Malmedy massacre would be free. None would hang.



“The prime object of military organization is Victory, not justice. In that death struggle which is ever impending, the Army, which defends the Nation, is ever strained by the terrific consciousness that the Nation’s life and its own is at stake. No other objective than Victory can have first place in its thoughts, nor cause any remission of that strain. If it can do justice to its men, well and good. But justice is always secondary, and Victory is always primary.”

-Author of the 1917 Manual For Courts-Martial
To the Maryland Bar Association, 1919

For Complete Citations See:

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Schneider, Benjamin M. (2021). Making Killers: Hate Training and the US Army's War in Europe, 1942–5. *Journal of Contemporary History*, 56(2), 343-363.

Schneider, Benjamin M. (2019). "No Law Except the Sword: American War Criminals and the Failure of Military Justice, 1942-1945." George Mason University.