

ESTABLISHMENT OF MILITARY JUSTICE—PROPOSED AMENDMENT OF THE ARTICLES OF WAR.

TUESDAY, SEPTEMBER 2, 1919.

UNITED STATES SENATE,
SUBCOMMITTEE ON MILITARY AFFAIRS,
Washington, D. C.

The subcommittee met, pursuant to adjournment, in the room of the Committee on Appropriations in the Capitol, at 10.30 o'clock a. m., Senator Francis E. Warren presiding.

Present, Senators Warren (chairman), Lenroot and Chamberlain.

Senator LENROOT. Last Saturday morning, I, as acting chairman of this subcommittee, sent a note to Secretary Baker stating that these hearings were going on, and that I would be glad, if he desired, to have a representative of the department present at the hearings, and that the committee would be glad to hear such persons as he might suggest, and at his convenience we will be glad to have him appear before the committee. I had from him this morning a letter in reply, which I will present for insertion in the record at this point.

(The letter referred to is here printed in the record in full as follows:)

WAR DEPARTMENT,
Washington, August 30, 1919.

MY DEAR SENATOR LENROOT: I have just received your courteous note of this morning informing me of the hearings before the subcommittee appointed to consider the Chamberlain bill proposing to revise the court-martial law.

I should be very grateful if the clerk of the subcommittee could be instructed to supply me with copies of the testimony as rapidly as possible, so that my associates and I can have the benefit of the suggestions made. At the convenience of the committee I, of course, desire to have Gen. Crowder, Gen. Kreger, and Gen. Kernan appear as witnesses, and I should be glad also to personally appear at the convenience of the committee, though, perhaps my appearance had better come in the latter part of the hearings rather than in the earlier part of them, so that any matters which the committee has before it affecting orders issued by me will be fully disclosed and can be properly discussed. My own attention to the court-martial attention, of course, has been supervisory rather than executive, and on the general question of modifications proposed the suggestions of those who have been operating the present system will have to be relied upon for detailed discussion.

Cordially, yours,

NEWTON D. BAKER,
Secretary of War.

STATEMENT OF MR. W. B. THOMAS.

Senator WARREN. I understand that we have as a witness before the committee this morning Mr. Thomas. Will you give your full name to the stenographer, Mr. Thomas?

Senator CHAMBERLAIN. May I make this statement for the record? Mr. Thomas was incidentally introduced to me some days ago, and I ascertained that he had participated more or less in court-martial trials in France as an enlisted man, and I asked him if he would come before the committee while he was here to give his views upon the whole subject, from the viewpoint of an enlisted man and from the viewpoint of one who had participated in trials by court-martial, and he is here in pursuance of that suggestion.

Senator WARREN. What organization were you connected with, Mr. Thomas?

Mr. THOMAS. I was a private in Company F of the Sixteenth Engineers, railway, that being one of the first 10 regiments that was organized in the Reserves after the United States declared war, organized for the purpose of proceeding immediately to France for various engineering construction work, and organized of picked men who would be of the kind that could go without a great deal of preliminary training; men of sufficient poise and character to take part in the work that was required of them without having to be trained for a long time.

I would like to state that the enlisted personnel of the regiment was a very unusual one; it was of very high class.

Senator CHAMBERLAIN. Will you tell the committee who you are and what your business was and where you were located, and how you happened to go there?

Senator WARREN. I was just about to make that inquiry; because in those engineer regiments they were looking for those who were experienced in various lines.

Mr. THOMAS. Yes; picked men. I am a lawyer by profession, of about 25 years' experience, and of average standing, and of average ability, I presume, and I had a very fair practice.

Senator CHAMBERLAIN. Whereabouts?

Mr. THOMAS. At Minneapolis. I practice in the county and live in Minneapolis.

During the Spanish-American War I resigned a commission in the militia and enlisted as a private in the Third United States Artillery, Regulars. I resigned my commission in the militia at that time because the militia then were very inefficient.

I served for about six or seven months as a private during the Spanish War in the Third Artillery, Regulars, and then was given a commission in the Thirty-fifth Infantry, and served with them in the Philippines, resigning from the Army in 1901. On the outbreak of this war there were many reasons which the committee would not be interested in, the details of which I need not go into, why it was very advisable for me to go into the Army. The conditions in Minnesota were such that I felt it clearly my duty to do everything in my power. I was over the age for a commission, as the law then stood, but I was within the age to enlist in the engineer force, and I enlisted.

We went to France; left some time in July, 1917, and arrived in France about the middle of August—about the 20th of August, 1917—and I was there until this spring.

Shortly after we had gotten there numerous charges began to be brought against men for all sorts of offenses, and within a little

while it got out among the enlisted men that I was an attorney in civil life, so that I became very popular as counsel for the accused in court-martial cases. The present Articles of War make no distinction between an officer and an enlisted man in acting as counsel for an accused, and while the officers attempted in every way to prevent my acting, I stood my ground constantly on my right, under the Articles of War, until an occurrence which I will relate later, and insisted on acting for all the men who demanded that I do so.

When I give my views, gentlemen, I am quite sure that I am voicing the opinions of the enlisted personnel of the American Expeditionary Forces; I lived with the boys two years. The life in the Army is much more intimate than even in an affectionate family. The boys live together and know every move that everyone makes. There could be no closer intimacy than is in the barracks of a company under the conditions that we had in France.

One case, which I did not try myself, but which was put into my hands after a conviction with the view that perhaps something might be done, and which was put in my hands not by the man himself but by his friends in his company who were outraged at the injustice that had been done, was the case of a man named O'Hara.

Right here I desire to state, parenthetically, that just before leaving for the United States I was sent to the hospital in France with tonsillitis, and the doctors suspected that it might be diphtheria, which was then rampant there, and I was put in isolation and everything taken away from me that I had, including all my papers, and I never got them back. All of the papers that I had accumulated as counsel for courts-martial were lost then, and I have to testify entirely from memory.

This man O'Hara was stationed at the Engineer replacement camp at Angers as a casual. There were fourteen or fifteen thousand men at Angers in casual camps, and the system was, when replacements were needed in any company or regiment in the Engineer Corps, a demand was made on the replacement camp for so many men, who were then selected and sent out to fill up the vacancies. Men were going through there at the rate of 2,000 or 3,000 a day, going and coming, and they were all strangers to each other. It was not the same as where men were in their own companies and all knew each other. The men were all strangers, and no man was interested in anybody but himself.

This man O'Hara, with about 70 others, was sent out with a lieutenant as replacement to a regiment. They marched down to the depot in Angres in heavy marching order, with all their things on their backs, at 3 o'clock in the morning. After marching around there for a while looking for a train, the lieutenant took them into the waiting room and told them to unslung their packs and wait there. This waiting room was in the immediate vicinity of the eating room in the station, and after the lieutenant had gone out the men asked the sergeant who was left in charge, "How about getting breakfast?" He said, "Certainly; any of you that want breakfast go in and get breakfast." Some of them did. This man O'Hara and one other went in and sat at a table overlooking the tracks, where they kept on watch, and ordered breakfast. They were there not over 20

minutes, and when they came out their outfit was gone, and they rushed down the track and found that the outfit had gone on a French train, not on the train they were expected to go on, but a French train that the lieutenant found had some empty cars on it, and the lieutenant had come back on the run and told them to come on and go, and they had been gone six or seven minutes when these two men came out of the restaurant.

This man O'Hara immediately went across the street and reported to the provost marshal, the proper procedure for a man in his condition. He was given three years and a dishonorable discharge and, as far as I know is now serving his three years. He was when I left France; he was in prison.

Senator LENROOT. Were the facts that you state proven?

Mr. THOMAS. I am speaking now of the record. I am speaking not from what somebody else might have stated, but from what the record showed, and the whole facts shown. He was charged not with missing a train, but with disobedience, the disobedience consisting in not remaining in the immediate vicinity. Of course, any lawyer would understand that he was not guilty of disobedience at all, but that is what he was charged with.

Senator WARREN. Tell us something about the trial. What was he charged with, and who constituted the court?

Mr. THOMAS. That, sir, I do not know. In that particular case the record was given to me to examine, but I did not represent the man on his trial. The record was given to me to see if something could not be done on appeal, and I did write a communication or two about it, but got no satisfaction.

Senator WARREN. You looked the case over to see if the man was guilty?

Mr. THOMAS. Yes, sir; and I personally was not acquainted with the court, and I could not give you the names of the members of the court.

Senator WARREN. You could not give us the names of the court?

Mr. THOMAS. No, sir; the only name I remember is that of O'Hara, of the One hundred and sixteenth Engineers.

Senator CHAMBERLAIN. That would locate him.

Mr. THOMAS. Yes. The case must be of record. It was a general court.

Senator WARREN. You do not know whether he is serving his sentence now or not?

Mr. THOMAS. He was when I left France, early this spring. He was in the prison camp at Gievres.

Another case, which was a little thing, but which probably showed the attitude as well as anything I know of, was a case—

Senator WARREN. Just a moment; I am not, I might say in this connection, speaking for any division of opinion about Regulars or drafted men or militia, but still, sometimes it is well to follow those matters. As to these officers of that court, if you know, to what did they belong?

Mr. THOMAS. I do not know, sir. In regard to this particular court, I do not remember the name of a single officer that was on the court. The case had not been tried in the vicinity in which I was

stationed. It was tried at Angers when I was up on the English front, and I paid no attention to that. I only paid attention, so far as a record was concerned that was given me, to the facts and not to the personnel of that court, or any names.

Senator WARREN. This record you received came from the man himself or from friends of his?

Mr. THOMAS. This was the record of the court, and he sent it to friends of his, who sent it to me. I think his friends got it from his counsel—the man who represented him on the trial.

Senator WARREN. I was going to say that the complaint is, usually, that they can not get those records.

Mr. THOMAS. There was great difficulty in getting them, in certain cases.

Senator WARREN. I wanted to ask how it came to you, so as to cover that point.

Mr. THOMAS. His friends got it from the man who represented him on the trial as counsel.

Senator WARREN. I happened to try to find, myself, about an officer, and was not able, in my position, to get at the record.

Mr. THOMAS. Yes; that was the general complaint over there.

One case that showed the drift over there perhaps as well as anything was the case of a lieutenant, whose name unfortunately I have forgotten, but I can give you the name of the judge advocate who prosecuted him, and that is the important matter in this regard. This lieutenant was an expert telephone man from one of the little cities in the Middle West, I think Crawfordsville, Ind., and was taken because of his expert knowledge, and was sent over there immediately. He was sent over there as a casual officer, without any training, a first lieutenant, and he reported at Tours and was told that he would be assigned to his outfit in a short time, and in the meantime to wait around Tours. Tours was then the headquarters of the Service of Supply Department. I may state that by character he is a rough-and-ready, hail-fellow-well-met man, used to construction work, used to bossing men on the job, and pleasant to everybody. Everybody he met was "Sandy" or "Shorty" or "Bill" or "Curly" or some name of that sort. That evening he went into a café in Tours and saw an enlisted man sitting at a table drinking a bottle of wine, so he clapped the enlisted man on the back and sat down with him, perfectly delighted to meet some decent company. They sat there and had a bottle of wine or so until the café closed, at 9 o'clock, and then two girls came through the room as it was closing and spoke to the enlisted man, whom they knew, and who spoke to them in French, and then the enlisted man turned to the lieutenant and said, "If you want something more to drink, these girls say we can get it around at their rooms," so the lieutenant and the enlisted man went around to the rooms and got some more to drink. The evidence was clear that there was no improper conduct otherwise. Simply they were not through spending the evening yet, and they went around there because the café was closed—in one of the largest hotels in Tours.

The lieutenant was arrested. He had been seen with this enlisted man. *There is the suggestion.* A certain Maj. Elmore, of the Judge Advocate General's Department, was the prosecutor.

In his address to the court he said—and he represented the Judge Advocate General's Department, of course, in saying it:

If this man had done what he did alone or in company with other officers, he would have been guilty of no offense, and you could well pass it by. Having done what he did in the company of an enlisted man, I insist that dishonorable dismissal from the Army will not be sufficient for him, but that a sentence of imprisonment at hard labor must be added.

And they gave him three years.

Senator CHAMBERLAIN. And a dishonorable discharge?

Mr. THOMAS. Yes; and a dishonorable discharge.

Senator CHAMBERLAIN. Is that a part of the record?

Mr. THOMAS. Yes; and that address is in the record. There were other cases.

Senator CHAMBERLAIN. Who was this Maj. Elmore? Let us locate him.

Mr. THOMAS. Except that he was Maj. Elmore of the Judge Advocate General's Department, I do not know. Gen. Ansell knows him. I mentioned this incident to Gen. Ansell the other day, and he said, "Oh, yes"——

Senator CHAMBERLAIN. How can we locate the case? Do you know the unit to which he belonged?

Mr. THOMAS. No; he was a casual officer and had no unit. If his name was mentioned to me, so as to bring it to my mind, I would know it. I have racked my brain to try to remember it, but I can not do so.

Senator WARREN. We would prefer that you would deal with cases that you have been personally connected with.

Mr. THOMAS. Yes.

Senator WARREN. Did you have that record?

Mr. THOMAS. Yes; from the same person who gave me the O'Hara record.

Senator WARREN. Did you appear in it at all, Mr. Thomas?

Mr. THOMAS. Only after the trial, as his representative to get a mitigation, if possible, of punishment.

Senator WARREN. Before whom?

Mr. THOMAS. That was all done in writing. In that particular case the communications were addressed to Gen. Harboard. I never heard from it.

Senator CHAMBERLAIN. Signed by you?

Mr. THOMAS. Yes. I never heard from it. In our own outfit, which not only meant our own regiment——

Senator WARREN. Before you get to that, tell us about that case, if you know.

Mr. THOMAS. The lieutenant is serving his time, also, at Gievres.

In our own outfit I was selected first as counsel. In our own regiment the first case that I had was a general court-martial, and there again the name has slipped me, although I remember the men very well. This was a court-martial of a man who had gotten into an altercation with an officer, which was nine-tenths the officer's fault. The officer had led him on and harrassed him, and so forth. That was the first case in which I appeared, and I tried the case just as an attorney in civil life would try a case, making as much as I could of the facts, no matter whom they hurt. In that case,

the sentence, I think, was a very reasonable one. The man was sentenced to six months imprisonment and \$5 fine, per month, for that period.

Thereafter—and this is the point I want to make as an instance of one of the openings that are now possible, under the present system—thereafter it was impossible in our regiment to get a general court-martial. In general courts-martial a complete record is kept of all the proceedings, the testimony, motions, and so forth—everything that is done. In a special court no record was kept at all except the charges and the findings of the court. After that one case, we never had a general court-martial case.

Senator CHAMBERLAIN. Why was that?

Mr. THOMAS. I am, of course, now giving my opinion, but in several instances, as counsel for the accused, I demanded general court hearings, and the case was referred to a special court, and in all of those cases, I think without exception, they would pile up the charges in the special court; as, for instance, a man would be absent without leave 24 hours, and they would put one charge in the specifications against him for being absent without leave under the article that prohibits that. Then they would put in another charge in the specifications against him for failing to report for his work, that being covered by another article of war. Then they would put another charge against him, in one instance for disobedience, there having been a general order out that all men must report back when their passes were out. Then the special court would give him six months on each one of those charges and specifications, and make no record of it.

Senator CHAMBERLAIN. How long a term of imprisonment could a special court give?

Mr. THOMAS. Six months.

Senator CHAMBERLAIN. Then they would make the punishments cumulative?

Mr. THOMAS. They would make them cumulative. Whether they came under general order from general headquarters, those sentences were all served, not according—

Senator CHAMBERLAIN. Were they enforced, as a rule?

Mr. THOMAS. Yes, sir. Now, I am guessing now, but I appeared as counsel in at least 50 and, I think, 100 cases after that general court in which I appeared.

Senator CHAMBERLAIN. You have not given the names of the men you represented.

Mr. THOMAS. No, sir. I can remember most of their names.

Senator CHAMBERLAIN. Do you remember the name of the first party?

Mr. THOMAS. Reynolds, of Company C, One hundred and sixteenth Engineers. Every one of those men was charged with seven or eight charges and specifications for one act.

Senator CHAMBERLAIN. The Judge Advocate General's Office may want to locate the case.

Mr. THOMAS. All that I can do, Senator, is to give you the names, and in my regiment I think I can give you also the company in each case. I can give you the man's name and the company.

Senator CHAMBERLAIN. Will you try to furnish the stenographer with the names of these parties you represented?

Mr. THOMAS. Yes.

Senator CHAMBERLAIN. You can do that, and let him print the names and the units to which they belonged?

Mr. THOMAS. Yes, sir.

Senator WARREN. Who was the colonel of your regiment?

Mr. THOMAS. Burgess, for a time, and during the time I speak of Col. Fowler was in command. Burgess was on detached service somewhere. As I say, a record was kept of general court-martial cases but not of special courts. The trials were all by special courts, of which no record is made.

Senator CHAMBERLAIN. No shorthand report?

Mr. THOMAS. No shorthand report, but they would reach the same amount of punishment by charging a man under four or five different Articles of War for the same offense and give him six months on each one; as, for instance, in one instance a man who was absent without leave for 24 hours was charged with being absent without leave and also charged with failing to appear for duty at his proper place under another article with several specifications on it, and in one instance was charged with disobedience, there having been a general order that men would not be allowed to leave camp without proper permits. They would turn that into disobedience of orders. Then they would give him six months on each one of those charges and make them cumulative. After that first case, until I left duty with the regiment I never had, nor could we get, although it was several times demanded, a general court-martial hearing.

Speaking generally, the special courts were extremely arbitrary and autocratic. A man had practically no rights before them at all.

Senator WARREN. Will you give us your opinion as to why that change was made, Mr. Thomas?

Mr. THOMAS. Yes; it was generally believed, it was the universal belief, and I think borne out by all the facts, that the men in control, in authority, did not want records of the cases made; did not want the facts taken down or preserved, so that anyone could ever find out what they were.

Senator WARREN. You continued to appear in these cases?

Mr. THOMAS. Yes, sir; I continued to appear until along in August, 1918; and as preliminary to what I have to say now, I would like to put myself in evidence as Exhibit A.

We were up on the English front for five or six months in the spring and early summer of 1918, and came back from the English front to Nevers. About the 1st of July I was in the city of Nevers, our camp being out of the city about 2 miles. I was properly in the city, free from any regulation, at the Red Cross, and was taken with a violent chill, followed by high fever, which afterwards turned out to be a violent case of flu, which was new there, and they did not know as much about it as they found out afterwards.

A lady in the Red Cross put me in a bunk at the Red Cross and the soldier boys looked after me, and the next morning I was even more ill; could not raise my head. The Red Cross lady telephoned to the hospital in the city of Nevers, at the base hospital there, and they sent me for three weeks to the hospital, and then sent me out to the

regiment with an order that I was to do no manual labor of any kind and was not to be put to any exposure.

Senator WARREN. You were not subject to drill?

Mr. THOMAS. No, sir; I was to do no manual labor and was not to be subjected to exposure. I was sent from the hospital before I was ready to go because they were so crowded. They needed room for new cases.

Just prior to that the boys of my company, and also I will say, of the other companies of the regiment, had asked me to look into and demand an accounting of the company funds. It was the general supposition, amply supported by the circumstances and such facts as the men were acquainted with, that our company funds had been dissipated by the captain, for their own pleasure.

Senator CHAMBERLAIN. Was the captain the keeper of the funds?

Mr. THOMAS. The captain was the keeper of the funds. In attempting to get an accounting of these company funds we had no success at all, and it was insisted that some showing be made as to whether it was—

Senator CHAMBERLAIN. You were doing that as the representative of the men?

Mr. THOMAS. As their representative, and at the request of the men. We had nearly starved to death when we knew that we had several thousand francs in the company fund that we had no use of at all. On the English front we had been on a very poor English ration when there was plenty of food to be had, but we could get no money out of the captain to buy it.

On my return from the hospital, which was just at the time when we were asking for this accounting, and also at the time when I was busy all the time attending court-martial cases, and doing nothing else, and we were trying three or four a day, when I came back with this order to do no manual work I was immediately put into the kitchen as the permanent kitchen police, that being usually considered as a form of company punishment, and the hardest work that can be required of a man—put there permanently to scrub pans and peel potatoes, working from before breakfast until after dark; did it without complaint; practically did not do it, because I was busy all the time trying these court-martial cases; and anyway, under orders appointing counsel, they had to give me time to do that.

That went on for about six weeks, I still insisting on some action in the matter of the company funds.

Senator CHAMBERLAIN. To whom were you making that insistence?

Mr. THOMAS. To the captain.

Senator CHAMBERLAIN. To the man who was keeping the funds back?

Mr. THOMAS. Yes; and orally had had a talk or two with the regimental commander.

Six weeks after I came back from the hospital we were still trying these cases. We had two special courts going all the time. We had two special courts going at two villages about a couple of miles from each other, and I was going backward and forward all the time from one to the other.

One evening after finishing our trial work, at half past 10 or 11 o'clock at night, the lieutenant who was acting as judge advocate of

one of the courts said that he would like to see me, and I went over, and he read me charges against myself for absence without leave during the time that I was in the hospital.

Senator CHAMBERLAIN. Who read this to you?

Mr. THOMAS. The lieutenant who was acting as judge advocate of one of the courts, Beselius. He told me that I would be tried the next morning at 11 o'clock.

Senator CHAMBERLAIN. Did you see the charge?

Mr. THOMAS. Yes; he read the charges to me.

Senator CHAMBERLAIN. For the time that you were in the hospital, entirely?

Mr. THOMAS. Yes; absent about three weeks, just the time that I had been in the hospital.

Senator CHAMBERLAIN. How long was this after you returned from the hospital?

Mr. THOMAS. About six weeks.

Senator CHAMBERLAIN. And after you had gotten active about the company funds?

Mr. THOMAS. Oh, yes, sir; yes, sir. I raised such a howl about it that Beselius said he would see if he could not get the case postponed for a day and give me a chance to go to Nevers and get the hospital record and the testimony of the lady at the Red Cross; and he did succeed in getting a day's continuance, and I went down to Nevers.

Senator CHAMBERLAIN. With leave?

Mr. THOMAS. Yes, sir; the next day. Well, I will say with leave. Not with a formal pass, but with a statement from Beselius that I was going in on court-martial business. I may state in that respect, Senator, there was either an order or it was permitted, so that a counsel in a court-martial had leave, within reason, to prepare his case without a formal pass. I went into Nevers, to the guardhouse in Nevers, and went back to the regiment under guard.

Senator CHAMBERLAIN. Without seeing the authorities?

Mr. THOMAS. Without any opportunity to get the witnesses. As soon as I got into Nevers I was arrested.

Senator CHAMBERLAIN. How far was that from your post?

Mr. THOMAS. About 2 miles.

Senator WARREN. That was not done by any members of your regiment?

Mr. THOMAS. No, sir; I was arrested by the military police; but there had been a 'phone message from my regiment to the guardhouse in Nevers. I do not know whom that came from.

I was arrested just as I was coming out of the Red Cross at Nevers, where I went to see this lady, who was not there, being away for the day. Next morning I was tried. Upon the formal motion, I could make no argument. I was tried anyway.

Senator CHAMBERLAIN. By a special court?

Mr. THOMAS. By a special court, without any record except the charges and the findings. I introduced the hospital record immediately on having the charges read, which I had had one of my friends in the company get before it could be destroyed. I introduced the hospital record, showing that I had been in the hospital all this time, and testified fully as to the facts. The only evidence against me was my first sergeant's evidence, that on that day I had gone into Nevers;

that evening I was taken sick, and from that evening I did not report to the company until I came back from the hospital.

Senator CHAMBERLAIN. Which was true?

Mr. THOMAS. Yes; which was true. He also testified that when I did come back I came back with a hospital order showing how long I had been there.

I will say that technically I was absent without leave during the time I had been sick at the Red Cross; from that evening until the next day technically I had been absent without leave.

Senator CHAMBERLAIN. But ill?

Mr. THOMAS. But ill; so ill that I could not hold my head up. However, they found me guilty of absence without leave for the whole time.

Senator CHAMBERLAIN. How long?

Mr. THOMAS. About three weeks.

Senator CHAMBERLAIN. For how long were you sentenced?

Mr. THOMAS. I was given four months at Gievers, without any fine. That four months is the minimum punishment for which a man was sent to a disciplinary barracks.

Senator CHAMBERLAIN. Now, will you give the unit to which you were attached at the time of the trial, and the names of the members of the court?

Mr. THOMAS. Company F of the Sixteenth Engineers was my company and regiment. The president of the court was Capt. Magoffin.

Senator CHAMBERLAIN. He was the keeper of the company funds?

Mr. THOMAS. No, sir; the president of the court was Capt. Magoffin of E Company of the regiment.

The other members of the court were First Lieut. Smith, of F Company; First Lieut. Challoner; and Second Lieut. Paddock. I think that comprised the court. There may have been a fifth member. If there was, it has slipped my mind. Beselius was the judge advocate.

I have been getting a little ahead of my story. At supper time of the day these charges were read to me—Oh, the charges were filed by Capt. Wenzell, of Company F.

Senator CHAMBERLAIN. He made the charges?

Mr. THOMAS. He made the charges, and he was particularly the man who, we were as morally sure as we could be of anything, had dissipated our company funds.

Senator WARREN. May I ask you there: You belonged to a company. Now, what about the medical men of that service? How many did you have in your regiment?

Mr. THOMAS. Sometimes two and sometimes three.

Senator WARREN. In the regiment?

Mr. THOMAS. Yes, sir.

Senator WARREN. Did they insist upon having no one go to the hospital unless they first sent them, or anything of that kind?

Mr. THOMAS. That was the general regulation. I do not know that that was insisted upon.

Senator WARREN. You said that technically you were guilty of absence without leave?

Mr. THOMAS. Yes, sir; technically I should have gone on my company's sick report, reported to the regimental surgeon, and then by

him ordered to the hospital. That would have been the regular way of getting into the hospital. In my case that had not been done. I had taken sick in Nevers—extremely sick—very suddenly, and had been sent to the hospital, not through the regular channels.

Senator WARREN. You felt that they took advantage of the technicality?

Mr. THOMAS. Certainly.

Senator WARREN. I think that I can see that point now.

Mr. THOMAS. I felt that they were bound to get rid of me anyway.

Senator WARREN. You think it was prejudice because of your defense of various of your comrades?

Mr. THOMAS. Certainly; I was just going to enlarge on that, Senator.

The instant that happened, at supper time that same day the charges were laid before me, Col. Fowler sent for me.

Senator CHAMBERLAIN. The regimental commander?

Mr. THOMAS. Yes; and he told me that he was not going to have me take any more of these court-martial cases.

Senator CHAMBERLAIN. Why?

Mr. THOMAS. He did not say. But then, it was reported that he said he was not going to have his officers subjected to cross-examination that way, and shown up.

Senator CHAMBERLAIN. By a private?

Mr. THOMAS. By a private. I said, "One way to keep them from being shown up is to have them"——

Senator CHAMBERLAIN. So far as you know there is nothing in the law to prevent a private from acting as counsel for an accused.

Mr. THOMAS. No, sir; that is true.

Senator CHAMBERLAIN. He is permitted to act, and so is a civilian, as I understand?

Mr. THOMAS. Yes, sir.

Senator CHAMBERLAIN. And they are permitted the same privileges on cross-examination that an officer would have?

Mr. THOMAS. Yes. Just the same as any counsel, in that case.

Senator WARREN. I want to get at the action that is differing from the law; wherein there is any difference.

Mr. THOMAS. The colonel told me I could take no more court-martial cases. That was at supper time of the same day that those charges were read to me, later. I told him if he made such an order as that it would be illegal, and a reversal by him of the laws passed for the government of the Army.

Senator WARREN. Now, you say that the sentence of four months imprisonment was the minimum punishment. What did you do during that four months?

Mr. THOMAS. I was at Gievers a part of the time. I was discharged before the four months were up.

Senator WARREN. Why did they discharge you before?

Mr. THOMAS. Well, I think partly because I was an old man, and I had a good prison record, and there was a general supposition at Gievers that it was an outrage to send me there.

Senator WARREN. I can easily understand that; but give us the difference between a disciplinary barracks and a guardhouse, for

instancè. Of course I know what the differences were when I served, but I want to get at what it is now.

Mr. THOMAS. In a regimental guardhouse a man was among his own friends, and the men over him were his own friends.

Senator WARREN. But he was confined?

Mr. THOMAS. He was confined in the guardhouse. The point was raised there in my case whether, if I was in the guardhouse, they would not even then have to let me appear as counsel if I were demanded by anybody, and the supposition was—it was only a supposition—that they gave me enough to send me away from the regiment, so that I was put clear out of the way.

Senator WARREN. You were confined in the disciplinary barracks the same way as you would have been in the guardhouse?

Mr. THOMAS. Oh, certainly; the disciplinary barracks is very much stricter. It is practically a prison.

Senator WARREN. Yes.

Mr. THOMAS. As a matter of fact, with me it was not. I was given greater privileges at Gievers than anywhere else in France.

Senator CHAMBERLAIN. You had no complaint there?

Mr. THOMAS. No complaint at all. I was better treated, and was treated with more consideration, than I was in my own regiment.

Senator WARREN. You say that you were discharged before your time was up. What percentage of the men who go to the disciplinary barracks have to serve out their full time?

Mr. THOMAS. Practically all of them, Senator, over there, so far as I was able to see, in my experience. There were, I think between 600 and 700 men. There were two prisons at Gievers, but in the prison to which I was assigned I think there were between 600 and 700 men, and during the two months or so that I was at Gievers I think one man was not discharged but paroled. He was an expert chauffeur, and the colonel got him to drive his car.

Senator WARREN. I want to see if they differed in their procedure in the disciplinary barracks from what they do here.

Mr. THOMAS. They were not called disciplinary barracks over there. They were called prison camps, and there was no segregation. Men convicted of crime were prisoners just the same and associated with and worked with the prisoners who were convicted of strictly military offenses. There was no segregation of any kind. They had men there serving 99 years, and they had men there awaiting sentence of death.

Senator CHAMBERLAIN. You felt that you were railroaded there because they wanted to get rid of you as an active defender of enlisted men?

Mr. THOMAS. No question in the world about it.

Senator CHAMBERLAIN. What ever became of the charge of dissipation of the company funds?

Mr. THOMAS. That was the end of it. I might say that within the last few days I met our regimental quartermaster, who is still in the Army, at the Washington Hotel, and who, by the way, was, I think, our most popular officer. He was one of these rough and ready, hail-fellow-well-met men, and the boys called him "Raw Beef Weeks." His name was Weeks.

Senator CHAMBERLAIN. Col. Weeks?

Mr. THOMAS. No; Maj. Weeks, the Colonel's brother. Maj. Weeks was the most popular officer we had.

Senator CHAMBERLAIN. Is he now a colonel?

Mr. THOMAS. No, sir; he is a major.

Senator CHAMBERLAIN. Is he a Regular?

Mr. THOMAS. No, sir; he is a reserve.

Senator CHAMBERLAIN. Is he out now?

Mr. THOMAS. No, sir; he has gone to San Antonio.

Senator WARREN. He is a lieutenant colonel?

Mr. THOMAS. No, sir; he is a major.

Senator CHAMBERLAIN. I would like to go back to this company business. Who was the captain?

Mr. THOMAS. Wenzell.

Senator CHAMBERLAIN. Was anything ever done with him?

Mr. THOMAS. No, sir.

Senator CHAMBERLAIN. Was the fund ever accounted for?

Mr. THOMAS. Maj. Weeks told me at the Washington Hotel the other day—the only information I ever got of it—that it was a part of his duty to audit those funds when the regiment was demobilized, and that he told those captains they would have to get vouchers, and they did get vouchers of a sort; that in the rush of work he passed them, but he was very much surprised that they had passed when they got to Washington. However, he said so far as he knew no trouble was ever made about it.

I will state, however, on my own responsibility, that in April, and from then following until I went to Gievers in August, the company fund of F Company was either entirely dissipated or short.

Senator CHAMBERLAIN. That is another captain?

Mr. THOMAS. No; that is the captain of my company—Wenzell.

Senator CHAMBERLAIN. He kept both?

Mr. THOMAS. No; he had simply the funds of F Company.

Senator CHAMBERLAIN. Oh, yes.

Mr. THOMAS. Whatever his final accounting may have been, I am willing to state on my responsibility that the fund was not intact from April 18 to August 18.

Senator WARREN. How do you account for his passing the audit?

Mr. THOMAS. Oh, he might make it up, or he might turn in any sort of vouchers. That is no very great trouble. No very strenuous accounting was ever made of those funds.

Senator CHAMBERLAIN. Was Wenzell a regular officer?

Mr. THOMAS. No, sir; a reserve officer.

Senator CHAMBERLAIN. Is he out?

Mr. THOMAS. Yes.

Senator CHAMBERLAIN. Demobilized?

Mr. THOMAS. Yes.

Senator CHAMBERLAIN. Promoted?

Mr. THOMAS. Yes.

Senator CHAMBERLAIN. To what rank?

Mr. THOMAS. Major.

Senator CHAMBERLAIN. He was a captain in the line?

Mr. THOMAS. Yes; he was a captain, and was promoted to major about the 1st of September, 1918.

Senator WARREN. That name sounds familiar. Can you tell me where he went from?

Mr. THOMAS. Yes; from Detroit. He is a young man, himself, but his father and his uncle are consulting engineers in Detroit—Wenzell & Bro. or Wenzell & Co.

Senator CHAMBERLAIN. Has your record in the Army been good?

Mr. THOMAS. Yes, sir; with one exception. I had been operated on in the winter of 1917 for hemorrhoids.

Senator CHAMBERLAIN. In France?

Mr. THOMAS. In France; and I had been returned again because of the crowding of the hospital before I was healed up, and there, again, I was returned to the regiment with an order to do no work until I was perfectly healed. The regimental surgeon marked me "duty."

Senator CHAMBERLAIN. Marked you for duty?

Mr. THOMAS. For full duty immediately, which was very hard at that time. We were in camp in the rain and snow and sleet and mud and on low rations, and I was in very poor condition and was very sore—could not stoop over.

Senator WARREN. Speaking of rations, were you in the American forces all the way up, or in the forces that served with the British and French?

Mr. THOMAS. No, sir; we were by ourselves at Is-sur-cille. At that time the men had broken down badly from overwork, and the sick report was very large. I should suppose that 33 per cent of the men were on sick report every morning, and the doctors were quite generally marking everybody "duty," and they marked me along with the rest.

The second day after I got back I went down to the village and rented a room, after objecting to being marked "duty," and having been marked "duty," and I think I was four days, or something like that, there.

Senator CHAMBERLAIN. Absent without leave?

Mr. THOMAS. Absent without leave, sick; and I was fined \$10 for that.

Senator CHAMBERLAIN. Not imprisoned?

Mr. THOMAS. Not imprisoned.

Senator CHAMBERLAIN. That was the only blemish on your record?

Mr. THOMAS. That was the only blemish on my record; and the circumstances were well understood. As I say, I think my punishment was \$11, one-third of one month's pay.

Senator CHAMBERLAIN. Did you establish a reputation, during your employment as counsel for the soldiers, as being a busy-body and a trouble breeder?

Mr. THOMAS. No; just the reverse, Senator. I tried to be just the reverse, and I think I was. I think I had the reputation of being one of the most punctilious soldiers in the regiment, so far as courtesy towards officers went, and I had the reputation, I am quite sure, among the men, of being oil on the waters, rather than a disturbing element.

Senator CHAMBERLAIN. What is your complaint, if any, against the court-martial system, and what suggestion have you to make about it?

Mr. THOMAS. In the first place, speaking as a lawyer, we who are engaged in practice in civil life overlook the fact, or are very apt

to overlook the fact, that the administration of justice is something that requires a considerable amount of training. Even where we are trying cases before a poor judge or where we have a poor or inexperienced lawyer on the other side, they know a great deal about their profession. It is astounding, and one who has not had the experience would not believe, how utterly foolish and how utterly incompetent even intelligent men are who have had no experience in the administration of justice or in the trial of cases. If it were not so pathetic, it would be ridiculous. They have no conception whatever of the requisites necessary to fairly try a case or to render anything like a just decision.

The most outstanding fact is that all courts-martial, practically without exception, were treated as personal matters.

Senator CHAMBERLAIN. In the Army?

Mr. THOMAS. In the Army. The very fact that some officer put charges against a man was sufficient to have that man convicted.

Senator CHAMBERLAIN. By his fellow officers?

Mr. THOMAS. By his fellow officers. It was a personal matter for him, and the whole case reeked with personal prejudice, from start to finish. It made no difference what the evidence was, it made no difference what the law was, the question was that some officer had preferred charges against a man and wanted to see him cinched, and that the court was there for the purpose of cinching him.

Senator CHAMBERLAIN. Did they make a complete record of the evidence at the trial?

Mr. THOMAS. Only in general courts-martial.

Senator CHAMBERLAIN. Did they make a pretty good record there?

Mr. THOMAS. No; it was always difficult there, Senator; not on account of the fault of the court, but because it was very difficult to get a competent stenographer.

Senator CHAMBERLAIN. In the summary courts they made no record?

Mr. THOMAS. No, sir. One of the gravest sources of injustice and one which irritated the men the most and which probably enhanced the irritable feeling of the men as much as anything else was the numerous instances in which men were kept the full limit of 40 days in the guardhouse and then were tried by summary court and given very trivial punishments.

Senator CHAMBERLAIN. That is, they were kept 40 days before trial?

Mr. THOMAS. Yes; before trial; and I was going to suggest that the bill S. 64 is deficient in that regard. It makes no provision; and I believe it would be a good thing and would lead to better discipline and more satisfaction all around with the system if the Articles of War themselves specified that all minor offenses—specifying what they should be, for instance, absence without leave for 36 hours, and other minor derelictions—shall be punished by a summary court and hearings shall be held within 48 hours.

Senator CHAMBERLAIN. And not keep men for days in prison?

Mr. THOMAS. As it now stands—and that is the old plan also—charges are filed, then investigated, and then the commanding officer orders what class of court shall try them, whether summary or special or general.

Senator CHAMBERLAIN. And in the meantime the man is in prison.

Mr. THOMAS. In the meantime the man is in the guardhouse all the time.

Senator CHAMBERLAIN. And after the trial, then he is often sent up for a few days only?

Mr. THOMAS. Yes; or only fined. There were many instances of men being in the guardhouse a month for some little bit of a trivial thing that they were fined \$5 for.

Senator CHAMBERLAIN. That is pretty generally the case?

Mr. THOMAS. That is universally the case. Speaking now from recollection, I do not know of any case that was tried in less than 20 days. In the meantime the man is in the guardhouse.

Senator CHAMBERLAIN. Have you any suggestion to make with reference to the proper representation of the accused by counsel? Is the system that is now in vogue all right?

Mr. THOMAS. It is. It is a case of administration, Senator. The system now in vogue permits a man to be represented by counsel of his own choice, making no distinction as to an enlisted man and an officer. It brings the accused before a special or a general court, and he can choose his own counsel.

Senator CHAMBERLAIN. Is that carried out?

Mr. THOMAS. In my instance it was carried out until they railroaded me; but under the present system there are always those opportunities for railroading if they want to get rid of a man. It is a very, very difficult proposition. There is no question that an officer must have practically unlimited authority to be used in emergencies. There is no question that in the American Army, at least, it is only necessary to use that authority once in a hundred years. The truth of the matter is that in my judgment, at least, and in the judgment of most of those with whom I was thrown in contact, the officers were a hampering element and not a helping element.

Senator CHAMBERLAIN. In what respect?

Mr. THOMAS. Our regiment was a very efficient engineering unit, a unit; and very proficient, very efficient. The men were from the class who knew how to do almost anything. I was continually surprised at their efficiency in the field. No matter what was required, whether it was railroad construction, engineering, surveying—anything that was necessary—we had men that knew exactly how to do it. There was this Federal base which was one of the largest supply bases built by the United States in France, involving some 150 or 160 warehouses each some 150 by 60, with all the roads and trackage and water system and electric lights and everything necessary to make it complete, and as complete a system as a railroad terminal for a city of three or four hundred thousand people would be. That was practically all done from start to finish, from top to bottom, by the enlisted men, and in nine cases out of ten when the officer interfered with an order he mixed it up. The men who were expert at the various branches would hold meetings, and I never saw men so interested in their work as they were. They would hold meetings among themselves, informal conferences, and lay out the work among themselves, plan it, and do it themselves. The officers would simply walk up and down on the work occasionally, showing themselves.

Senator CHAMBERLAIN. They were not experts in the work?

MR. THOMAS. Many of them did not know anything at all about it. There were rock cuts; there was tunneling work. In one instance an officer did interfere and blow up two men. One thousand pounds of black powder went off prematurely and blew a lot of fellows up.

The enlisted personnel were practical and efficient men at that work, and it was all done on their initiative from the surveying to the actual pick-and-shovel work.

SENATOR CHAMBERLAIN. Now, we are getting away from the line of the hearing. What other suggestions have you to make?

MR. THOMAS. A suggestion as to double charges. I think there should be a provision in the bill prohibiting the filing of more than one charge against a man for only one act.

SENATOR CHAMBERLAIN. That is, not charging him with desertion and being away without leave and with disobedience of an order, all involving one act?

MR. THOMAS. All involving the same act. That was one of the great sources of injustice, I think; but the two most outstanding, and the two to rankle in the men the most, were those two cases—the delay in the summary court hearing for a trivial offense, the long time spent in the guardhouse waiting, and the fact that a man for a comparatively slight single offense or act of omission would be charged under half a dozen different charges and receive a sentence of six months for each one.

SENATOR CHAMBERLAIN. Did you not find that the judge advocate who represented the prosecution and the court does, as a rule, know little, if anything, about the law?

MR. THOMAS. Nothing whatever, sir. As I said before, it would have been ridiculous if it had not been so pathetic.

SENATOR CHAMBERLAIN. Do you think there ought to have been some man there as the legal adviser of the court, at the trial, who understood law?

MR. THOMAS. Unquestionably. As I said before, the administration of even the simplest forms of justice is a highly technical matter that it requires trained men to administer.

SENATOR CHAMBERLAIN. That is the British system?

MR. THOMAS. I may say that I voice the opinion of the enlisted personnel, I am sure, in stating that their preference would be for an expert outside court that had no connection whatever with the Army.

SENATOR CHAMBERLAIN. Did you know any cases where a verdict of acquittal was rendered and was then disapproved of by the commanding officer—and a retrial of the case ordered?

MR. THOMAS. No, sir. I knew of many cases where disapproval by the reviewing authority was had. I knew of only one case where there was a reduction of sentence by the reviewing authority, and that was made by Gen. Patrick. A man in our regiment named Ronan had received a dishonorable discharge and had been sentenced to 15 years, and Gen. Patrick cut that down to 6 months, with a sharp reprimand; with a statement to the court stating that evidently no member of the court had any conception of rendering military justice and that it had shown personal prejudice all through the case. I may say that was the first general case we had.

SENATOR CHAMBERLAIN. Was this Gen. Patrick in charge of aviation?

Mr. THOMAS. Yes; he was in charge of aviation; and I may say that that was in the early days, and that that policy was reversed very shortly after that.

In every other instance that I saw except one, if any comment was made by the reviewing authority it was that the punishment was not sufficient.

Senator CHAMBERLAIN. They did not reverse it?

Mr. THOMAS. They did not reverse them. We had one boy in our regiment that was tried for disobedience, with every excuse for the disobedience. He was an ignorant sort of a boy and there was a general order that engineers should not be drilled, and he was ordered by the first sergeant to do extra drill as a punishment, after working hours in the evening, and he refused. The captain sent for him and ordered him to obey, and he still refused, relying on this general order, and he was tried and was given one year in Gievres without any fine. He was a harmless, pleasant boy, and the court very rightly took the view that he thought he was right. In that case the reviewing authorities reprimanded the court for their leniency.

Senator CHAMBERLAIN. For their leniency?

Mr. THOMAS. Yes; I know one other case in which the man ought not to have been tried at all, in which a sentence of dishonorable discharge and 20 years was cut down to 5 years and dishonorable discharge.

Senator WARREN. To revert for a moment to your statement that there should be a law that these cases should be tried within 48 hours, would you have any elasticity in case of engagements going on or because of movements of troops, where it would be almost impossible to get a court-martial? Do you think it is necessary to have any elasticity in that direction?

Mr. THOMAS. It is not necessary to have any summary courts when the American Army is not—

Senator WARREN. I meant about the 48-hour provision; whether that would be mandatory in all cases.

Mr. THOMAS. No, sir; it certainly ought not to be mandatory in action at the front. As a matter of fact, I never knew of any charges being preferred at the front. If a man committed any misconduct there, they waited until they got back to a rest area before the charges were filed. There are no guardhouses; there is no provision for guarding men or anything of that sort. The conditions would be so different.

Senator WARREN. As it is now, it is with the commanding officer how long they shall wait before trial, is it not? There is no law on it?

Mr. THOMAS. No, sir; the law provides that the man shall be served with the charges within 8 days after they are preferred.

Senator WARREN. I am speaking of the trial itself and his incarceration in the guardhouse.

Mr. THOMAS. Under the law he may be kept 40 days—10 days within which to serve the charges and 30 days thereafter.

Senator WARREN. Under the law, within how short a time can they perform those functions.

Mr. THOMAS. A man has three days after the charges are served on him, if he demands it, to prepare his trial.

Senator WARREN. Yes.

Mr. THOMAS. So that a man could be arrested to-day and tried on the fourth day if the charges were immediately served upon him.

Senator WARREN. Nothing would hinder it?

Mr. THOMAS. No, sir.

Senator WARREN. And if he did not ask for a delay there is nothing to hinder it at once?

Mr. THOMAS. Yes, sir; but, as a matter of fact, in practice it always works the other way. Courts are never ready to hear him until the last minute. The man is always anxious for his trial and can never get it until the last minute.

Senator WARREN. You proposed some legislation, and I wanted to get your idea about that. You would say that a man must be tried in 48 hours after he exhausted his time if he wished to exhaust it?

Mr. THOMAS. No, sir; you did not quite understand me, Senator. I said it would be a good plan in order to overcome the injustice of letting a man stay a long time in prison awaiting trial for trivial offenses, that the bill itself should specify what are minor offenses that shall be taken cognizance of by a summary court, and that whenever a man is guilty of one of those minor offenses he be tried by a summary court without investigation.

Senator WARREN. You speak about when he is guilty. That would only transpire after the trial.

Mr. THOMAS. When he is charged with being guilty, I should say, of one of these minor offenses he ought to be then tried by a summary court within 48 hours after his arrest.

Senator WARREN. How about the three days that he has? Would you cut those out?

Mr. THOMAS. He would not need those for a summary court. I have never known a man who ever demanded any delay. They are always ready for a trial if they can get one.

Senator WARREN. I agree with you about the desirability of quick action.

Mr. THOMAS. In the event that the case is serious enough to involve trial by a general or a special court-martial the judge advocate or the prosecution ought to be given time enough, and there are many cases in which the full 40 days would be necessary to prepare the case; in serious cases in which witnesses have moved around I can well see where it would take the full 40 days to prepare the prosecution's part of the case. But there is no reason why minor offenses should not be all tried in a summary court without investigation and why they should not have an immediate hearing on it.

Also, as I said on the other point, I think there should be a provision prohibiting charging a man under several specifications for one act or omission; that the prosecution should select what article they want to charge him under for any one particular act, and then be restricted to charging him under that act.

I have one other matter that I want to present to the committee. I was at the hospital at Savenay in France, and in the ward across the hall from me was a private, Paul B. Smith, in ward A 22, of Base Hospital No. 8. He was in Company C of the Twenty-seventh Engineers. He was wounded on August 21, 1918, at Chateau-Thierry, and practically all the flesh of his right leg from the knee to the

thigh was stripped off. In addition to that the tendons across his foot and ankle were torn by a piece of explosive shell so that his leg was worse than useless to him. He was getting around on crutches, but the leg simply dragged. He had been wounded in August. This was in January. He was up and dressed. They had a rule at the hospital that every man who had his clothes and got up should have his bed made and stand at attention at the foot of his bunk with his things all in order for morning inspection at 7.30 by the ward surgeon.

One morning this Smith, with the help of the other boys in the hospital, made his bed, as he did every morning, and the word was sent around for inspection, and after standing at attention for quite a while at the foot of his bunk Smith lay down on his bed, and within a half an hour or so the nurse orderly came running into the ward and warned everybody to stand at attention, that here came the inspecting officers, and that nurse saw Smith getting off his bed, and he said, "Smith, you make that bed up again right away. You have no business to lie down on it until after inspection." He said, "No; I can not make it up. My leg is hurting me very badly." They had quite an altercation, and that was going on when the surgeon came in. He asked what the trouble was, and the nurse told him. Without evidence, without any charges being filed or any proceeding of any kind, the following order was served on Smith:

HOSPITAL ORDER }
HCS. }

BASE HOSPITAL No. 8,
January 17, 1919.

1. Pvt. Paul B. Smith, Ward A 22, Base Hospital No. 8, will be confined to the guardhouse for a period of seven days and assigned to hard labor, for refusing to work in his ward except on orders from the ward surgeon himself.

By order of Lieut. Col. Estille, C. O., Base Hospital No. 8.

[SEAL.]

C. G. PAYSON,

First Lieutenant, Sanitary Corps, Adjutant.

(Lieut. Payson, Surgeon A 22, A. P. M., C. O. Hosp. Guard, Reg. file.)

Senator CHAMBERLAIN. Did you know the man?

Mr. THOMAS. I was there at the time and saw the whole thing.

Senator CHAMBERLAIN. Who signed that?

Mr. THOMAS. This is a copy which he wrote from my dictation and which I compared with the original order. This is one of the papers I got after I had lost my other papers.

Senator CHAMBERLAIN. How long was he kept there in the guardhouse?

Mr. THOMAS. He was kept there the full seven days. He has written on the back of this sheet of paper his own brief history. [Reading:]

Pvt. first class Paul B. Smith, Company C, 27th Engineers, was wounded in action at Chateau-Thierry front on August 21, 1918, high explosive shell penetrating right thigh inflicting a wound 9 inches long, another piece of shell entering right leg, causing ant. fibrol paralysis of the foot; can walk with crutches; refused to make the bed all over after making it once, when told to do so by a ward nurse, Miss Smith.

Pvt. Paul B. Smith, residence, Bisbee, Ariz., enlisted in San Francisco, Calif., April 5, 1918, arrived at the front July 17, 1918, and was put out of action August 21, 1918.

This man is about 35 years old.

Senator CHAMBERLAIN. He was tried by a court-martial?

Mr. THOMAS. No; he was tried by nothing.

Senator CHAMBERLAIN. Was there any authority for that?

Mr. THOMAS. Nothing in the world. It was the clearest case of false imprisonment. That is simply typical of the mental attitude.

Senator CHAMBERLAIN. Who is the lieutenant colonel?

Mr. THOMAS. Lieut. Col. Estille, commanding officer, Base Hospital 8. This is also signed by C. G. Payson, first lieutenant, Sanitary Corps, adjutant. Those are the officers whose names are on the order.

Senator CHAMBERLAIN. Did you see him in the hospital?

Mr. THOMAS. I saw him in the hospital, and saw him taken to the guardhouse. He came to me immediately after he got out for advice.

Senator CHAMBERLAIN. What became of the man?

Mr. THOMAS. I do not know. He was still in the hospital.

Senator WARREN. What was his condition when he came home?

Mr. THOMAS. It could never be improved.

Senator WARREN. What was the difference in his condition when he went into the guardhouse and when he came back?

Mr. THOMAS. Oh, he was practically as well, because the boys of the guard favored him every way they could—against orders, but of course they could get by with it.

Senator CHAMBERLAIN. What was the condition of his leg?

Mr. THOMAS. It was worse than if it had been cut off. It was simply dragging.

Senator CHAMBERLAIN. His condition was prevented from deterioration by the men at the guardhouse?

Mr. THOMAS. Yes. He could do no more work—and he had not entirely recovered from the shock. He was still pale and wan.

In addition to the permanent crippling, he was still a sick man.

Senator WARREN. Is that all, Senator Chamberlain, that you want to ask him?

Senator CHAMBERLAIN. I have nothing further.

Senator WARREN. I have nothing.

Senator CHAMBERLAIN. Mr. Chairman, I would like to have one or two witnesses called. Unless the Secretary of War shall desire to have some called, there are only two or three other witnesses that I know of that I care to have the committee hear. May I give you their names?

Senator WARREN. Yes.

Senator CHAMBERLAIN. Col. E. M. Morgan, of Yale College, Maj. Roger Hull, of New York City, and Mr. J. B. W. Gardiner, of No. 18 East Forty-first Street, New York City.

I think those are the only witnesses I care to have examined until after the Secretary of War submits the names of such witnesses as he wants to appear.

(Thereupon, at 12.30 o'clock p. m., the subcommittee adjourned until to-morrow, Wednesday, September 3, 1919, at 10 o'clock a. m.)