

*naacp Pamphlet  
T.M. Report on Korea*

March 12, 1951

MEMORANDUM TO MR. MARSHALL FROM HENRY LEE MOON

Attached is a draft of copy for a proposed pamphlet to be published over your signature.

It is based primarily upon your San Francisco speech but includes also information you had submitted in memoranda from the Far East.

The text, of course, is subject to as much revision as may be necessary. However, I hope that you will be able to give it your early attention so that we can proceed with publication in the near future.

Attach.

mw

(cc to Messrs. White and Wilkins)

## DRAFT OF REPORT ON KOREA BY THURGOOD MARSHALL

The Korean story is an old, old story/as old as Jim Crow in the Armed services. It is a story of the sacrifice of Negro troops upon the altar of segregation. The pattern is little varied from war to war. First ~~there~~ come ~~these~~ reports of some heroic deed done by Negro soldiers, something to indicate the courage with which they are facing the enemy and their ability to take the toughest kind of fighting ~~the enemy can give~~. And then a different kind of story begins to come back from the front as if in a concerted effort to discredit the record of Negro fighting men. These latter are stories of incompetency, failure and cowardice,-- stories which would make it appear that Negroes are not capable of combat duty and should be restricted to labor battalions.

This pattern was glaringly apparent in World War I. Negro regiments and Negro troops received wide publicity for bravery and strategic victories won in the early days of that war. Later came the stories that they were cowards, that they ran under fire and had to be court martialled for violation of the 75th Article of War, that is, for misbehavior in front of the enemy. The National Association for the Advancement of Colored People sought to investigate the complaints in that war but the records were never made fully available to the Association's representatives.

This pattern was repeated in Italy during World War II. The all-Negro 92nd Division was accused of ~~not~~ <sup>un</sup>being/able to stand up under fire. Again there were courts martial of men

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unjustly accused of running away from the enemy. Many of the men convicted by these courts martial appealed to our Association and we assigned one of our lawyers to review the records in these cases and to present argument before the Judicial Council of the Judge Advocate General's office in Washington. But this was after the war and the records were cold and bare and the witnesses scattered to the four corners of the world. Even so we were successful in obtaining exoneration for many of the men and substantial reductions in sentences for others.

When the war broke out in Korea last June 25, while our organization was in annual convention at Boston, we were aware of the consistent pattern. As the <sup>early</sup> ~~XXXXXX~~ "police action" settled down into a grim, costly and protracted war, we had the feeling that this was the point where we had come in. First there was the story of the initial American victory in the Korean campaign. That was a victory by the 24th Infantry which arrived in Korea on July 12 and was two days later thrust into the midst of the fighting. It was this all-Negro regiment which won for our country its first victory over the North Koreans.

Remember the story of the battle of Bloody Peak. The Third Battalion of the 24th Infantry fought up and down the mountainside in a desperate effort to dislodge the North Koreans who from that point of vantage commanded the highway to strategic Yechon. For days the fighting was continued with replacements constantly required. Casualty rates were unbelievably and

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staggering but still the 24th fought on, and finally held Bloody Peak in the first aggressive action by our troops. This feat was widely hailed in the American press and on the radio. This was at a time when most of the American Army was falling back under pressure of <sup>relentless</sup> ~~relentless~~ North Korean attacks. They were not only falling back but they were retreating with such alacrity that a cynical observer might have concluded that they were running away from the enemy. It began to look as if, of all the American troops overseas, only the 24th was fighting and winning.

And then it happened again. Such popular applause could not be permitted. Something had to be done to disabuse the public mind of the belief that Negro troops were doing the major part of the fighting overseas. There was a ready-made device for this purpose, the courts martial.

About mid-August came the first word of the arrest and subsequent conviction by courts martial of Lt. Leon A. Gilbert one of the few Negro officers of the 24th Infantry. Lt. Gilbert was charged with violation of the 75th Article of War, he was found guilty and sentenced to death. This sentence was later commuted by President Truman to twenty years after the NAACP had intervened in his behalf at a hearing before the Judicial Council of the J.A.G. in Washington. And after that came other reports of a large number of court-martial cases involving Negroes, cases in which Negroes were tried and convicted of cowardice, of misbehavior in the presence of the enemy and of failure to perform their assigned duties. Thirty-nine of these

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convicted men appealed to us for assistance in hearings on their cases in Washington. It was clear that something was wrong. The heroes of yesterday were now cowards, the same men, the same outfits; brave one day and frightened the next. Something had to be wrong.

It was then that our Association decided that we must get to the root of this trouble. We had assumed the responsibility of protecting and advancing the rights of American Negroes and surely in war-time the protection of our men and women in the armed services had first call upon our resources and abilities. The Board of Directors of our Association approved a plan to send me to Japan and Korea to make an on-the-spot investigation of the circumstances surrounding the courts martial of these Negro troops, to prepare to defend them and to make recommendations to avert such charges in the future. My first application for entry into Japan was turned down by General of the Army Douglas MacArthur. Following this rejection of my application, Walter White, our executive secretary, appealed directly to General MacArthur who rescinded his former action and granted permission for me to go to the Far East on what I <sup>became</sup> believe ~~was~~ the most important mission of my career.

I lost no time in taking off. I left New York by air on January 11 and arrived in Tokyo on the 14th. After settling down I was called into conference with General MacArthur, Gen. Doyle O. Hickey, chief of staff; Gen. Edwin A. Zundell, the inspector-general of the Far East Command; Col. Hickman, <sup>the</sup> Judge Advocate General of the Command; and with the general in charge of G2 whose name may not be revealed for security reasons. In

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this initial conference I told them frankly that I thought the men had been victims of racial bias and unfair trials and that the condition stemmed from the Army's segregation policies. Gen. MacArthur insisted that I be given the ~~complete and~~ fullest cooperation from everyone under his command. I worked through the Inspector General's office and found that the personnel in that office carried out Gen. MacArthur's command to the letter. They gave me full cooperation.

My first ~~task~~ <sup>the</sup> was to interview/imprisoned men personally. They were confined ~~in~~ <sup>in</sup> a stockade just outside of Tokyo. I spent three weeks making daily trips to the stockade during which time I interviewed 34 of the 36 accused men who had written for our assistance prior to my leaving New York. The other two were hospitalized at that time. I was permitted to talk freely to all of these men and, indeed, to anyone I wanted to talk with. Meeting them individually in a private room I questioned each ~~of them~~ <sup>man</sup> about his case. And I talked with others who were witnesses or members of the same outfit. In all I talked to some 80 ~~men~~ <sup>men</sup> and discovered the facts that were missing from the records. I checked and rechecked the facts. I sifted the hearsay from their statements. I talked with Lt. <sup>Leon A.</sup> Gilbert at least half-a-dozen times and got his full and complete story on the basis of which I am hopeful that we can obtain exoneration and have him returned to uniform.

But Gilbert is merely one of many. Take the case of one young GI convicted of cowardice. He enlisted at the age of fifteen, was stationed in Japan and ~~sent~~ <sup>was sent</sup> to Korea when the fight-

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he knew  
ing broke out without revealing his true age because he would have been returned to the United States as a youthful hero rather than permitted to get into the thick of the fighting. This lad stuck at the front until he was yanked out on a trumped up court martial charge. It was not until after this that his real age became known. He did not reach his eighteenth birthday until eleven days after he had been convicted by court martial.

And then there was the case of J.P. Morgan. Private Morgan, no relation to the famed financier, was court martialled for alleged violation of the 75th Article of War and sentenced to ten years at hard labor. This conviction was upheld by headquarters of the 25th Division of which the 24th is a constituent unit. Fortunately, Private Morgan was able to prove that he was in an Army hospital during the period when he was charged with not being on duty. When his case was taken to Washington the conviction was reversed and he was returned to duty with his outfit.

In another instance four men were convicted of misbehavior in the presence of the enemy although they were stationed miles behind the battleline and assigned to mess duty. Having been given time off one evening, they took a jeep and started to town. They were arrested, charged with violation of the 75th Article of War, convicted and sentenced to twenty years each. Again, these convictions were upheld by the 25th Division only to be reversed by Washington. The men are now back in the Army fighting. Between the time of their arrest and their trial they had been sent to the front line by their commanding office "for

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punishment." After twenty-one days of round-the-clock fighting they were brought back and court martialled.

And yet another case involving the men of the 199th Field Artillery. They were in a river bed on a peaceful, calm night, so quiet that practically all of the officers (white) left the post and went to town. At 12:15 the enemy began dropping mortar shells on the post without a minute's warning. There was confusion and the captain in charge gave the order to close station and move out -- an order known overseas as CSMO. They moved out and kept moving. Fourteen Negro artillerymen disappeared that night in obedience to the order CSMO. All but two were back the next morning. Meanwhile, the battery had moved position. Charges were filed against them and an investigation made. The commanding officer said because there was so much confusion no one knew what was happening and to forget about it. They went back to their assigned tasks. Then two of them were brought up on charges and court martialled. Three of their fellow soldiers, who testified for them at the trial, were themselves court martialled. The captain who gave the order gave three different stories during the trials as to what happened that night. Five men were convicted and the captain has been promoted to a major. Three of the convicted men got twenty years and two life.

These are but some <sup>examples</sup> ~~ways~~ of what happened to Negro servicemen, 32 of whom were convicted under the 75th Article of War. During this same period, August through October, 1950, (more)



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only two white GIs were convicted. The undisputed testimony in one of these cases shows that the soldier who was assigned to a first-aid tent near the front lines was intoxicated. He was ordered outside by his officer who later went out to look for him. The soldier had disappeared and it was days later that he was picked up far to the rear. He was tried and convicted and given a five-year sentence which was cut to one year by Division Headquarters. The other convicted white GI was given three years for disobedience in front of the enemy. This sentence has since been cut. Another white GI, who fell asleep at his sentry post, was acquitted although his commanding officer testified that he had seen him asleep. Justice in Korea may have been blind, but not color blind.

Having completed my interviews with the convicted men and having talked with Negro officers and enlisted men in Tokyo and with many others, I presented a preliminary report to Generals MacArthur and Hickey. I told them what I had found in these investigations, pointed out what I believed to be the cause of the courts martials and indicated whom I thought was to blame. I then requested permission to go to Korea to talk with the men of the 24th and its attached unit the 159th Field Artillery who were then on the front lines and who I believed would throw additional light on the circumstances surrounding these cases. ~~A~~ Permission was granted and a deputy inspector general, Col. O.D. Martin, was assigned to accompany me on this trip. I continued my investigations for eight days, talked with at least two men from each company of the 25th and from each battery of the 159th. Arriving at Taegu we went to the 8th Army Headquarters and made arrangements to visit the

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men at the front. The 24th at that time was at the apex of the battleline above Seoul. I talked not only with the men and officers of this outfit but also with General Omar Bradley, Major General Keane, Major General Milburn and others at Division Headquarters. At Pusan I had the opportunity to go through the complete courts martial files. There were a total of 118 complaints filed in the 25th Division for all types of offenses. Of that number 82 were taken to trial. The remainder were either withdrawn or dropped. Of the 82 servicemen tried, 54 were Negroes, 27 white and one Japanese. Twice as many Negroes were tried although there were four times as many whites in the Division. Sixty-six of these 82 cases were investigated by white officers and 16 by Negro officers. ~~xxxxxxx~~

As ~~was xxxxxxx~~ the result of these investigations ~~xxxx~~ the charges were ~~xxx~~ filed by the trial judge advocate and the trial commanding officers. These officers are all white as is also the Judge Advocate's office.

In talking with the men of these outfits I was told repeatedly that many of the white officers sneered at their troops who were about to go forth to fight and, if necessary, to die for the 48 country ~~and~~ saying: "I despise 'nigger' troops and I don't want to command you and the Division is no good and you are lousy. You don't know how to fight." While this was not true of all the officers, it was a prevalent attitude and created lack of confidence between the men and their assigned leaders. As a consequence, the casualty rates among the enlisted men and officers were disproportionately high. Neither had confidence in the other

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and neither offered the maximum protection to the other. I believe this condition was the cause of the courts martial. The high rate of casualties among officers made it necessary to blame someone. The Negro soldier was the convenient scape-goat.

Under the Articles of War the accused men are entitled to counsel of their own choice. In Korea the trials were held practically on the fighting line. The accused was seldom given more than fifteen minutes to talk with his counsel. The usual procedure was as follows. Shortly before the trial the accused would be approached by possibly two officers who would say to him: "We have been appointed as your defense counsel. Under the manual you may have counsel of your own choice. Whom do you wish?"

"Well, I would like to have Captain So and So."

"Sorry, he is up in the front lines."

"Then could I have Lieutenant So and So?"

"He is also up in the front lines"

\* The counsel that the soldier wanted seemed always unavailable. So the accused man <sup>was</sup> left with the meaningless choice of counsel assigned to him. Some of these men were pulled out of their fox-holes <sup>at</sup> night, brought to the <sup>site</sup> ~~scene~~ of the trial and put on trial at 9 o'clock the next morning having seen their counsel for the first time in the courtroom. Two men who received life sentences had trials lasting 50 minutes; another a trial of 44 minutes; and a fourth a trial lasting <sup>only</sup> 42 minutes. The courts were trying as many as four different cases in a single day.

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Under these circumstances it was natural that the men were seized with despair. Some of them with perfect alibis and air-tight excuses failed to put them up. Others neglected to testify in their own behalf. Repeatedly I asked men: "Why didn't you tell your lawyer that? Why didn't you speak up in court?" The answer was invariably the same: "It wasn't worth it. We knew that when we went in that we would be convicted and we were hoping and praying that we would only get life. They gave the officer death solely because he was a Negro. What could we expect? We know the score."

Such despair handicapped the men in their defense. There was the case of <sup>Sergeant</sup> Sgt. X one of the finest men I ever met, a soldier with a marvelous record. He had kept his company together during the administration of three successive commanding officers all ~~three~~ of whom were killed within a two-day period. He had never lost a single wounded man in more than ninety days at the front. He brought them out, sometimes on his back. He saw his own buddies killed one after another and kept on fighting day after day many times in command because there was no officer around. He <sup>was</sup> charged with refusing to obey an order. He went through his trial without mentioning either to his lawyer or to the court that he had at that moment in his pocket a statement from the medical doctor in charge saying that the sergeant was suffering from battle fatigue and should be returned to the rear. He never told anybody about it until I saw him in the stockade. I immediately called the captain of the guard and his story. There in his wallet, which had been taken up by checked ~~and in the wallet of the sergeant, the guard, was the slip.~~ the guard, was the slip.

"Why didn't you tell them?" I asked.

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Despite the difficulties they have encountered and discriminations they have experienced, our Negro troops have remained staunchly loyal turning a deaf ear to Communist propaganda. Just as in former wars, they have learned that enemy bullets kill black and white with fine impartiality and have rejected enemy propaganda. Our Negro troops in Korea have not been lured by the song the Communists sing.

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"It wasn't worth it," he answered. "It wouldn't have helped me. Didn't you talk to <sup>Sergeant</sup> ~~xxx~~ Y?"

"Yes."

"You saw what happened to him. He had an excellent Army record which he presented in the court but which was ignored. They are not paying any attention to anything we say."

INSERT A I am happy to report that <sup>with</sup> the appointment of Colonel John T. Corley as commanding officer morale in the 24th Infantry has been vastly improved. There are still some officers in the <sup>whom</sup> ~~regiment xxx~~ the men do not respect but they do respect and admire their new commanding officer who has demonstrated to them that he is interested in their fighting qualities as soldiers and not in their color or race. The 24th is doing a job at the front lines of which we all may be proud. This outfit was one of the first to enter the Korean conflict and at one time was ~~sixty-three days~~ on the front lines continuously for 93 days.

On the basis of my five weeks of intensive investigation in Japan and Korea ~~by~~ reading the records, talking with the convicted men, their associates, their counsel, enlisted men and officers -- I am convinced:

(1) That the men were tried in an atmosphere making justice impossible. They were denied free choice of counsel, they were hastily tried without adequate opportunity to consult with their legal defense. Charges were preferred against them by officers who had contempt for them and they were tried before other officers of the same ilk;

(2) That General MacArthur had no direct hand in the courts martials. These cases were initiated within the regiment

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and approved by Division Headquarters which forwarded them directly to the J.A.C. office in Washington;

(3) That these cases are rooted in the Jim Crow policies still persisting in the Army. There were no large number of courts martials in the Air Force, Navy or any other mixed unit. The responsibility for maintaining the color line in the Army in the Far East rests with General MacArthur. He has failed to implement the President's order for the elimination of segregation from the armed services. He could have moved promptly to that end as soon as the President announced a new policy as did the Air Force and the Navy. While there are a few mixed units in the Army in Korea the general practice is one of rigid segregation and is glaringly apparent at the headquarters of the Far East Command to which no Negroes are assigned, and

(4) That the NAACP has the evidence to clear most of these hapless men of the unfounded charge of cowardice and have them returned to service in the U. S. Army -- an Army which we hope will soon become truly democratic and fully integrated.