

Chapter 4

November 1944–April 1945

Our outfit is finally inside the Siegfried Line, the last great stronghold of the German defense. The replacement company is at Eschweiler.

I see many civilians. At first I wonder about their attitude and look for signs of it, but that is like looking at the *Mona Lisa*. I've never been able to decide whether she is smiling or smirking. These are the stubborn ones who have refused the orders of both their own and Allied armies to move eastward. They are mostly farmers, coal miners, and small-factory workers. For security reasons, we are ordered not to "fraternize" or talk with them. But I've spoken with our civil affairs and medical officers, who say, "In this section of northern Germany, the people are quite religious. They have cooperated with the Nazis because of their orders, but they resent their dogma. All they did was oppose their antisocial decrees, especially against Jews."

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At any rate, they are here and very much in our hair. Some of the German civilians spot for their artillery, snipe at us, and transmit information with concealed radios. So we enforce strictly the rules for civilian conduct posted on the doors of German dwellings. Civilians must stay indoors from dusk to dawn and observe absolute blackout. They must also stay indoors during daylight, except that they may work the land adjoining their homes and tend cattle. One person from each dwelling may obtain a pass for one hour a day to shop for food. Those outside their homes are carefully watched by the newly recruited Dutch army and the MPs, as well as by the Intelligence Corps, Civil Affairs units, and others.



Our firmness is free of oppression. They have stated surprise that we have not taken their homes, furnishings, or cattle. They are not forced to work for us, but they may work for pay—one-and-a-half marks per hour for common labor and more for skilled work. This treatment must seem strange to them, knowing as they do that some of their possessions have been taken from German-occupied countries—France and Belgium—and that millions of laborers from other countries are working in German concentration camps against their will.

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The bombed houses smell of something in decay. Lacking water, the people do not bathe, so they smell of sweat. Everything is old and musty. Our troops guard mines, factories, and warehouses against pillaging by German and Dutch civilians. Under the Rules of Land Warfare, captured military stocks are ours, but civilian goods are not. We can obtain coal stoves, coal, and beds for an American hospital only by requisition. A record of the amount and value is kept for final accounting.

Going through the northern areas in Germany, we see the civilians are farmers tending crops and cattle, work gangs along the roads, and



people looking out from windows and doorways. The lookers are the *Mona Lisas*. An elderly man leans against a doorway, a woman rests on her elbows in an open window, or a girl carries milk pails suspended from a neck yoke. Some look toward us but avoid our eyes. Others look at us with a sort of intent stare and half-smile, as if attempting to be

pleasant. Most are women. Some are small children or elderly men.

The women sit by their windows for hours. The sidewalks are flush with the house fronts, and window sills about waist high. The windows are hinged on their sides and open in—when you look in, you feel as if you are already halfway inside. Women sit by the sills or on chairs close inside, watching us.

Increasingly disgusted with the luxuries enjoyed by some Germans at the expense of occupied countries, I have filed an amended application for transfer to JAGD and assignment to war-crimes investigation. Now in the 29th Division at Aldenhoven, Germany, I get word I'll transfer on January 4 to the Ninth Army headquarters in Maastricht.

Lt. Col. Henry Mize meets me there and takes me on a tour of the HQs, formerly an office building. Its size and my new assignment humble me. He shows me a desk in a large room housing a library on international law.

"This is where you will work. Feel free to read the books and articles as you choose. There is no decision yet on the form of the indictment against the leading Nazis. I would like to see a memo on your thoughts," he says.

"This must be a test," I think.

Colonel Mize is about my age, 35, a little taller, thin, and friendly. He goes on, "Now, I'll show you your quarters." He takes me to a fancy hotel less than a block away and talks with the manager, who ushers me into a splendid room on the third floor with bed, bath, a table and chairs, and two windows.

The next morning I start my research, making a study of the types of war crimes that might be prosecuted, the treaties and international law involved, and the kind of evidence needed for the trials to come. Among the papers I read is the October 7, 1942, speech of President Franklin Delano Roosevelt:

In August, I said that this government was constantly receiving information concerning the barbaric crimes being committed by the enemy against civilian populations in occupied

countries, particularly on the continent of Europe. I said it was the purpose of this government, as I knew it to be the purpose of the other United Nations, to see that when victory is won the perpetrators of these crimes shall answer for them before courts of law.

I learn that the United Nations War Crimes Commission formed in the fall of 1942 and three months later started the Central War Crimes Evidence Library in London to compile lists of perpetrators. In Moscow on November 1, 1943, President Roosevelt, Prime Minister Winston Churchill, and Premier Joseph (Vissarionovich Djughashvili) Stalin issued their first public declaration on war crimes, in part:

We have received from many quarters . . . evidence of atrocities, massacres, and cold-blooded executions which are being perpetrated by Hitlerite forces in many of the countries they have overrun and from which they are now being steadily expelled . . . these German officers and men and members of the Nazi party who have been responsible for or have taken a consenting part in the above atrocities, massacres, and executions will be . . . judged and punished.

The end of the declaration suggests the Allies have not yet agreed upon the form of indictments against the offenders, the makeup of the trial tribunal, its procedures, or the types of punishments to be imposed. These matters will not be settled for several months. I write my thoughts in a 12-page memo to Colonel Mize. A few excerpts illustrate the problems:

We are not going to find precedent in the law or in the authorities as a basis for many of the types of violations we are going to see . . . The new totalitarian concepts arising since the last war have completely upset the lagging concepts of civilized laws of nations.

. . . [We] apparently are going to treat as war crimes any acts which are obnoxious to the fundamental principles of humanity and chivalry and which are not justified by military necessity.

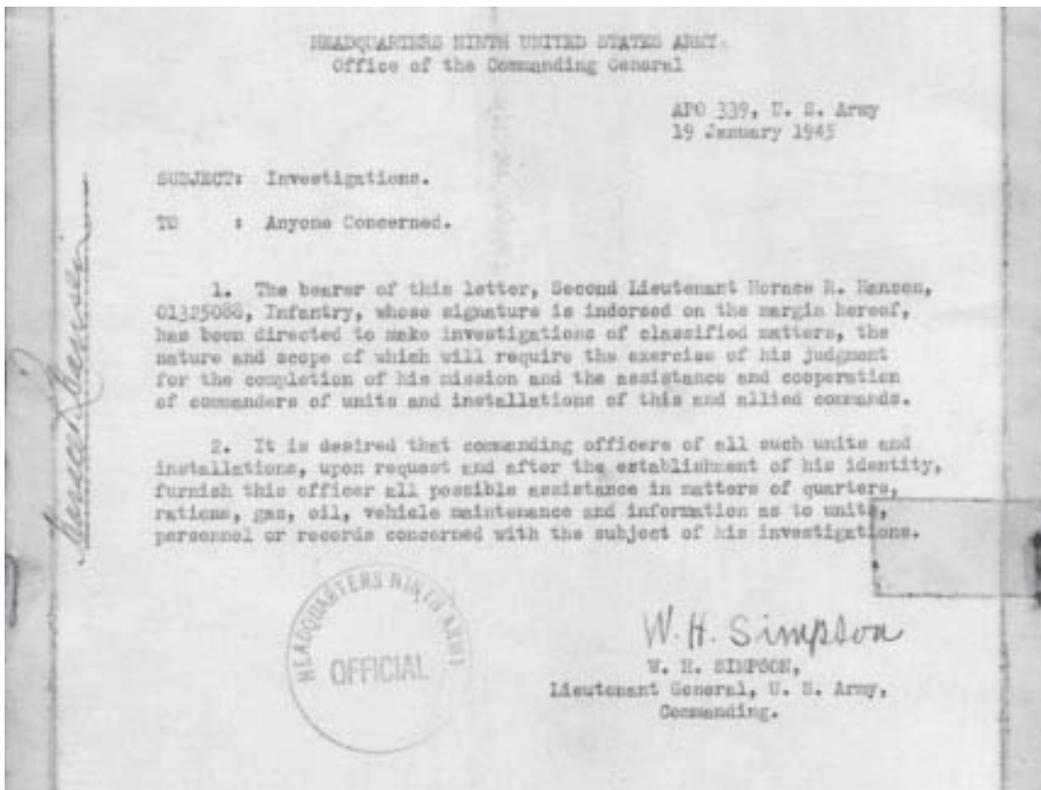
Commission of a war crime under orders of a superior is not a defense, but it may be considered a mitigation of punishment.

Completing my research in about a week, I give Colonel Mize my memo. The next day he introduces me to Lt. Gen. William H. Simpson, commander of the Ninth Army. He is a tall, lean man, unassuming and cordial. He wishes me well on my assignment and hands me a letter addressed to "Anyone Concerned" (meaning Allied commanders at all levels). The letter, signed by Simpson, calls for cooperation with me in my work.

I start to gather evidence in a broad area of northern Germany. The Ninth Army is the main force there, while the British and Canadians are along the coast of the English Channel. Some of the commanders I need help from say, "What the hell is this?" Others say, "What do you need?" In most cases, it is gasoline, food, a place to sleep, translators, and a large truck to carry personnel.

Once I have what I need, I visit a nearby subcamp (satellite of an administrating, or main, concentration camp) to interview witnesses,

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mostly former slave laborers. I get descriptions and names, when possible, of the SS men who have committed war crimes and try, with help from others, to apprehend them. In many cases, they are nearby, wearing civilian clothes. They are often identified by the tattoos of blood type near their left armpits. (Only members of the SS have such tattoos.) But most have fled. In such cases I make a special report, with a copy to the Central War Crimes Evidence Library in London.

Soon various intelligence sections and military governments report so many treaty violations and atrocities that I am able to handle only the worst ones. These include the starving, beating, and killing of slave laborers, mostly from France, Holland, Poland, and Russia, as well as the torture and killing of American prisoners and others in concentration subcamps. I'm almost too busy to notice how sick and angry I am at the cruel acts I hear about.

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I inspect several subcamps recently liberated. One is like the next—in each, a group of six to ten one-story blocs (barracks) in the woods, painted light green and surrounded by a high barbed-wire electric fence, with a high guard tower at each corner. The blocks have housed the slave laborers from areas conquered by the Germans. The laborers have been marched daily to nearby privately owned factories or mines to work about 11 hours before returning to their blocs each night. They have been fed only a thin soup and a little black bread before and after work. They have slept on deep wooden shelves, stacked as in a warehouse, three men abreast on each shelf.

The prisoners were civilians, able-bodied men and some women, literally kidnapped from territory occupied by Hitler's SS men and herded into these camps. They were called "slave laborers" because their SS captors sold their labor to factory owners for two to five marks per head per day. This amounts to about 20 to 50 U.S. cents, the lower scale for common labor and the higher for skilled labor. The wages provided the only income for members of the SS.

I investigate war crimes at the scene and take a hand in arresting a few perpetrators. Some are indicted for trial. Most have fled deep into Germany. But their names, descriptions, and crimes—and conclusive evidence of guilt—are on the perpetrator list. A network of Allied organizations is alert to apprehend them. In addition, Col. Melvin Purvis, the former FBI agent who captured the notorious John Dillinger, leads a special organization in arresting the perpetrators.

The investigations are difficult, especially when dealing with the Russians. It takes three translators to learn their stories—one who knows Polish and Russian, another who knows German and Polish, and still another who can translate German to English. I become more

confident with experience. In one case, a German lieutenant received a letter from his superior, taking him to task for mining too little coal. He became irate and took his 60 or more slave laborers outside, ordering them to remove their clothing. They stood naked in the cold weather while the lieutenant gave them a half-hour tongue-lashing, excoriating them to mine more coal and be fast about it. While he abraded them, some fell down from the bitter cold and starvation and died. Others died later. A total of about 20 died from the exposure.

The battlefield war crimes committed against Allied troops always come first and are investigated quickly. From prisoners we can often obtain information and net the perpetrators at once. Most crimes have been committed by SS troops and paratroopers, though on the whole the Wehrmacht has been treaty-abiding. At any rate, these investigations take me all over the Ninth Army front, and I seize every opportunity to check out crimes at the scene.

Many atrocities are reported in the liberated Dutch border towns, and I go back there to gather evidence. The quiet Dutch civilians have lived under a terrorism hard to describe. Since September 1944, men and women have been starved, beaten, robbed, and killed by Germans in desperation of advancing American planes and troops.

In Roermond, Holland, a city of 20,000, the SS units ordered all men and women aged 16 to 60 to dig tank traps and artillery emplacements. Few responded and almost all went into hiding, so the SS blocked off a section of the town at a time and searched each house. The units forced Dutch men under armed guard, by beating them with clubs, to do the digging. Because this went too slowly, they moved in 4,000 Russian and Polish slave laborers, mostly women. The searches continued, but the Dutch were clever in their escapes. In

reprisal, the Germans looted homes and shops, taking away trainloads of living necessities and valuables to Germany. When these tactics didn't produce much, they called in paratrooper units. Immediately the paratroopers went house to house, smashing front-door locks with axes and hammers. They raided the homes at night, arresting all the able-bodied men and women they could find to dig the ditches.

Still more slave labor was needed for German factories, so the paratroopers used a scare tactic. They would pick a group of men, make them dig their own graves, then shoot them as a lesson to those who hid. The victims' only offense was hiding, and they had no trials. A warning was distributed to each house—any man 16 to 60 years found after 4:00 P.M. the next day would be shot on the spot. Before the deadline, more than 3,000 Dutch men reported to the marketplace to be marched off in a long column to German concentration camps. On the second day, the Germans locked them in freight cars that took them on an all-night ride to the concentration camp Giebel near Wuppertal. There, for the first time in three days, they received some food—the soup and black bread. Then they were split into groups and sent to various factories.

During some of the marches, older men and women died on the roadside. Some women bore children in the cold. Both mother and child died. Those who made it were immediately put to work.

I spend eight days, with the help of the Dutch Underground, interviewing witnesses and escapees, taking photos, and collecting documents. The Germans' methodical record-keeping proves many gross crimes. The cases I handle make it clear that the Germans have violated every provision of the Rules of Land Warfare based on the Hague and Geneva treaties, and more. Their brutality has gone be-

yond anything the experts in international law could anticipate while drafting the rules.

My war-crimes investigations are interrupted by the long static defense at the Roer (or Rur) River. During a lull in the activity, I see at some distance a flock of ducks flying toward the enemy. I watch closely and think of the good old hunting days. Some more planes



Behind, the Roer Ahead the Rhine," reads the headline for a Stars & Stripes map after the crossing.

come in, and flak suddenly bursts just ahead of the ducks. Black puffs fill the sky. The ducks turn suddenly right. The bursts progress, and the ducks must make another right turn, which puts them on a reverse course. I expect they will be hit or scattered, but they keep a perfect V-formation, and their wings don't miss a beat.

After crossing the Roer, I notice that many of the German towns remain untouched by the war. The citizens have good shoes and clothing, and the women wear silk stockings. They also have plenty of bicycles, and there are many cows and horses in the fields.

In France, Belgium, and Holland, the women were bare-legged and wore wooden or cloth shoes and cheap, worn clothing. There were not enough horses to plow the fields. In one Dutch community there were only four horses left to plow hundreds of acres for three years, so the fields were not plowed, and the people starved. And I can't forget Roermond, Holland, where many had facial sores for lack of proper nutrition and where every shop was cleaned out.

In April Maj. Gen. John B. Anderson, CO of the XVI Corps, orders me to prosecute some GIs for multiple rape. I am called back to the town of Altfeld (3,000 population) on the west side of the river, where the crimes occurred. The GIs are in an artillery battalion of 300 men. Some of the younger men were bored, restless, and looking for action as they awaited the buildup of troops.

Many of the GIs, in a short division of about a hundred, decided one evening to go in pairs into the homes of women and rape them. Taking turns, one held his rifle or pistol on the victim and others in the house, while the other GI assaulted her. In most cases there were two women and occasionally an elderly man. The younger men were

away at war. The victims were of all ages; one was 80 years old. Afterwards the GIs looted the homes.

I interview some of the women in my makeshift office in a schoolhouse. All tell the same story—they can't identify the men. I must figure out a strategy, some way to identify the perpetrators. The women are so shocked that they are of little help. But they have come willingly to my office. All they know is that the men all wore the same uniform and that some were taller than others. Most of the women have somber faces. One woman tells me, "They were like animals, and they were rough and tore my dress."

"We will arrest and punish them," I say.

I have to find some other means of connecting the 40 involved GIs to the victims. My thoughts turn to the looting. Perhaps we can identify the men by the jewelry and other items they stole. But many may have mailed the items home. Only the inspector general has the right to open packages at random. His search yields a few items, subsequently put into envelopes marked with the sender's name. This is not enough. I must find a better way.

The inspector general cooperates, and we conceive an unusual approach. Borrowing a group of men from another outfit and instructing them carefully, we gather at the edge of the division area at 4:00 A.M., then walk in and wake the GIs. One inspector stands in front of each two-man tent and makes them strip and stand at parade rest. The inspectors then go through their pockets and duffel bags. We find hundreds of pieces of jewelry, coins, and other valuables. These items are placed in envelopes, marked in each case with the soldier's name and serial number, verified by the dog tag worn at all times on a chain around his neck. The evidence is sealed.

This procedure complete, we set up a line of tables at a schoolhouse, laying out each group of valuables next to a numbered card matching the number on the soldier's envelope. We circulate a written notice in the town, saying we have the valuables and inviting everyone to the schoolhouse at an appointed time. Almost everyone comes.

We instruct the townspeople not to go near the tables until directed and not to touch or take anything. We queue them up, one line for each side of the tables, and they examine each pile. We hear exclamations and shouts of joy as they identify their valuables. A soldier writes down each identifier's name and address, saying she will hear from us soon. Then we run a lineup of the GIs whose numbers have been identified. The ravaged women silently indicate whether they recognize the rapists. Answering our questions afterward, some make positive identifications, from a look in the eye, from hair, profile, or weight and height. This identification is matched to the holders of the valuables, without the knowledge of the victims. I choose two of the men identified to be defendants at the trial.

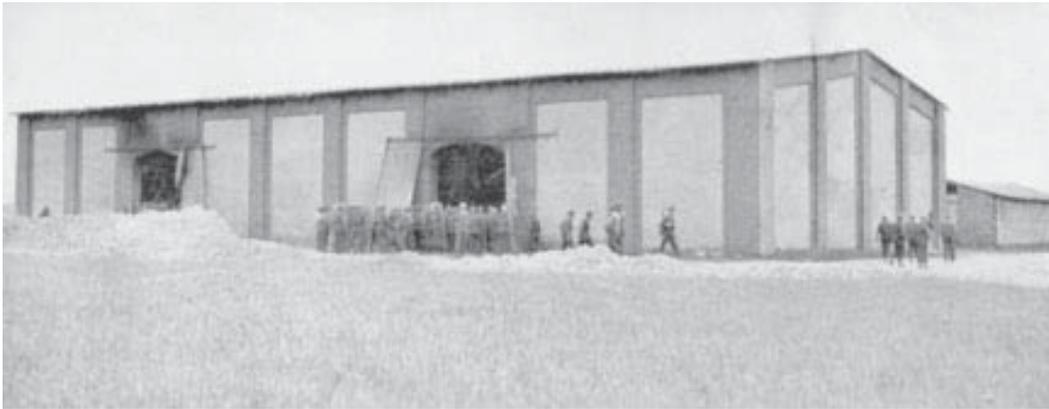
Five senior officers, seated behind a table in the schoolhouse, conduct the trial. There is a table for defense counsel, another for me and my assistant. Almost all of the victims are in the audience. A captain second-chairs me. (I am now a first lieutenant.) He doesn't offer any suggestions throughout the trial, which takes two weeks.

The convictions are unanimous, and the men are sentenced to death by hanging. This is the first time someone I've prosecuted has received the death penalty. Even for so heinous a crime, the penalty seems unjust. Ten years seems plenty, but the military has its rules.

Afterwards, to my surprise, I receive the Bronze Star for "outstanding service" in the case, the solution of which appeared impos-



sible. The pattern of proof laid a foundation for other prosecutions. But I feel guilty about the sentencing. The perpetrators had to be convicted, and that's what I did. For now, the convicted men are kept in stockades, awaiting case review. I hope their sentence is commuted.



In the barn above, near Gardelegen, Germany, the Nazis burned 300 prisoners alive. Below, what was inside.

