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CANADIAN MILITARY LAW OVERSEAS.

In a previous article, 56 C.L.J., p. 41, certain phases of the law applicable to Canadian military forces overseas were discussed. It is desired in this article to set forth as a matter for record the practice adopted with respect to claims against the Crown by reason of negligence or tort on the part of Canadian soldiers. Such cases were numerous. They included a multitude of claims for damages caused by the negligent driving of motor and other transport vehicles on the highways, as well as claims for trespass, damage to property, theft and kindred offences. For reasons set forth in the previous article, the Canadian forces in the earlier years of the war, having formed no definite policy of their own, submitted themselves to the practice of the British military authorities, but in 1917, pursuant to a realization of their true status, which gradually developed, a change of position was taken which will be outlined, together with the reasons for taking it.

In France and other foreign theatres of war the Imperial authorities asserted the immunity of a sovereign state from civil proceedings, as generally recognized under International law. When, therefore, claims were put forward by the inhabitants of a foreign country by reason of tortious or negligent acts on the part of Imperial soldiers, they were brought before British commissioners appointed to investigate and deal with such matters. All claims were submitted through Town Majors and Area or Military Commanders, and if it appeared that a claim had been occasioned by the occupation or movement of Imperial troops, or that there was a moral obligation to indemnify inhabitants who had suffered injury, or loss, at the hands of individual soldiers, the commissioners allowed the claim at an amount which in their judgment was fair and reasonable, and it was paid in due course.