

EVIDENCE IN THE CASE OF A. 4102 PTE. BARNARD, DS L., NO. 1 CANADIAN INFANTRY HOLDING UNIT, HELD AT WITLEY, 21st DECEMBER, 1940

Prosecutor - Lieut. G. M. Graham, No. 2 Infantry Holding Unit (Lawyer)

Defence - Lieut. D. Ivor, No. 1 Infantry Holding Unit.

Court Reporter - B.26026 Sgt. F. J. Nethercut, R.C.E., C. M. H. Q.

Q. 1 - Do you object to be tried by me as President or by any of the officers whose names you have heard read over?

A. 1 - No sir

Q. 2 - Are you guilty or not guilty of the first charge against you which you have heard read?

A. 2 - Guilty, sir

Q. 3 - Are you guilty or not guilty of the second charge against you which you have heard read?

A. 3 - Guilty, sir

Q. 4 - Are you guilty or not guilty of the third charge against you which you have heard read?

A. 4 - Guilty, sir.

Q. 5 - Are you guilty or not guilty of the fourth charge against you which you have heard read?

A. 5 - Guilty, sir.

Q. 6 - Are you guilty or not guilty of the fifth charge against you which you have heard read?

A. 6 - Guilty sir.

Q. 7 - Are you guilty or not guilty of the sixth charge against you which you have heard read?

A. 7 - Guilty, sir.

Q. 8 - Are you guilty or not guilty of the seventh charge against you which you have heard read?

A. 8 - Guilty, sir.

R. P. 35 (b) is hereby complied with.

Q. 9 - Have you any statement to make in mitigation of punishment?
A. 9 (Defence) - I would like to call witnesses in mitigation of punishment and would also like to have the accused call.

1st Witness, A.3574 Pte. Fitzgerald, M. J. No. 1 Canadian Infantry Holding Unit, having been duly sworn is examined by the Defence.

Q. 10 - Were you in the same Company as the accused?

A. 10 - I was at one time sir in the same platoon.

Q. 11 - On the 16th day of October 1940 did you see the accused?

A. 11 - Yes sir

Q. 12 - You know the accused?

A. 12 - Yes sir

Q. 13 - Where did you see him on that date?

A. 13 - I saw him in the drying room sir, at approximately 10.30 in the morning.

Q. 14 - Did you speak to the accused?

A. 14 - Yes sir

Q. 15 - Can you give us the conversation on your part?

A. 15 - Recalling the last time I saw the accused was in the drying room, on that date and I was coming in on business. I asked the accused why he was not on parade which was not my business but I asked him and he said he was not feeling well. He was lying down in a corner and I said the O. C. was coming around and he had better get up. He said he couldn't - he was too sick.

Cross-examined by the prosecutor

Q. 16 - Pte. Fitzgerald, this drying room was at New Martinique Barracks was it? What sort of a floor was he lying on?

A. 16 - It was a cement floor but there were some biscuits there.

Q. 17 - That is the small mattresses?

A. 17 - Yes sir

Q. 18 - Was he in that position when you went in.