

Q.209. And at the conclusion of the summary did you caution Sgt. McNeil in the exact words as laid down by rules of procedure as to the making of any statement.

I did. I cautioned him in accordance with, I think it is, rule of procedure 48.

Q.210. Would you carry on from there Mr. Stewart.

I cautioned the accused, A/Sgt. McNeil in these words "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence". Sgt. McNeil replied "I wish to give evidence under oath".

Q.211. Before you go any further, did Sgt. McNeil volunteer that himself?

He did.

Q.212. Was any influence brought to bear upon Sgt. McNeil to make that statement.

No sir. He was told he did not have to make a statement if he did not wish to do so and he chose to make a statement.

~~CROSS EXAMINED~~ BY THE DEFENDING OFFICER

Q.213. Beside the question which you put to the accused and that you just re-stated, you made no suggestion to him whatsoever that it might be of assistance or otherwise? Did you encourage him to make a statement?

No. He was not encouraged. He was more or less warned if he wanted to make a statement he should be careful about what he said. He was not encouraged. He did so voluntarily. THE PROSECUTOR DECLINES TO RE-EXAMINE. THE COURT IS CLOSED TO CONSIDER THE ADMISSIBILITY OF THE STATEMENT MADE BY THE ACCUSED AT THE TAKING OF THE SUMMARY OF EVIDENCE.

THE COURT DECIDE THAT THE STATEMENT IS ADMISSIBLE AND THE COURT IS REOPENED AND THE DECISION IS ANNOUNCED.

THE STATEMENT OF THE ACCUSED MADE AT THE TAKING OF THE SUMMARY OF EVIDENCE IS READ TO THE COURT.

THE SUMMARY OF EVIDENCE IS MARKED EXHIBIT "K", SIGNED BY THE PRESIDENT AND ATTACHED TO THE PROCEEDINGS.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH R.P. 83(b).

THE WITNESS WITHDRAWS.

PURSUANT TO R.P. 86(d) THE COURT RECALLS THE THIRD WITNESS FOR THE PROSECUTION.

Third Witness for the) No.K.65065, Cpl. (L/Sgt.) J.A.A. Vandal, 2nd bn. prosecution recalled ) The Canadian Scottish Regiment, C.A., having already been sworn, is examined by the court.

THE JUDGE ADVOCATE

Q.214. You were present when Pte. Rushworth was injured?

Yes sir.