

H. Johnson
Asst. Pres.

Court - We never announce in court a finding unless the finding is Not Guilty

Defending Officer - I think I made most of my statement in mitigation of sentence this morning. One fact I didn't bring out as clearly as I wanted to was the fact that S/Sgt Vyvyan is an Acting S/Sgt and has been for over two years. Now, I am bringing this out because I have no idea of what the court intend to give him but the man should have been confirmed in some rank at least almost two years ago and I think it has been an oversight on somebody's part and I don't think the man should have to pay for it. As I said this morning I have not been able to find any evidence as to the fact that he should not have been confirmed and it leaves him rather out on a limb to be a private acting as a S/Sgt. As I said this morning the accused admits being drunk. Also the witnesses produced said he was drunk and any man who is drunk if he is drunk enough is not aware of what he is doing and is not responsible for his actions. Capt. Cornell pointed out that in K.R.(Can) it says that this is no excuse for committing an offence whilst drunk. I admit that but I would like to make a plea that the court take into consideration the fact that the accused was drunk. The accused as the court can see has a clear crime sheet, M.F.M.6, and as I said this morning he has been a Permanent Force soldier for over six years. He is a young man and probably inclined to be a little foolish at times. Surely there are a lot of people who once in a very long while take too much to drink and are not by any means confirmed drunkards. Now, S/Sgt Vyvyan said that he was drinking wine on this occasion. He also said that he had never before had wine to drink and as the court will realize anyone who has not had wine to drink before will find the effect on him is that he will not know the effect on him while he is drinking it and it will probably hit him all of a sudden. I think that is all I have to say and I again ask the Court for mercy

Court - The court will now close to consider the sentence. I will have to point out to you that you are remanded under close arrest to await promulgation. I have no right to say that you can be kept in open arrest. In a case of this kind where there is a plea of guilty the only person who can order a release is the convening officer and you may now retire.

Certified to be a true transcript of the shorthand notes taken by me at the F.G.C.M. described on page 1

F. J. Nethercut
(F. J. Nethercut) Sgt.
Court Reporter