

movements from then to the time of his surrender, except that he had hitchhiked to Clinton and that anything else was "irrelevant to the case". Taken to the scene of the crime, he unhesitatingly led investigators to the outhouse where the murder rifle had been hidden.

Cunningham was committed at the preliminary hearing which opened at Prince George on November 27. Included in the evidence was testimony from the Identification Section NCO as well as from the members of the Scientific Laboratory at Regina, where, in addition to the blood stains on Cunningham's clothes, it had been established that bullet fragments recovered from Thorsen's head and the cabin wall had been fired from the rifle in question.

The trial was set for early in May 1952, at Prince Rupert Assizes, and Cunningham was transferred there several days beforehand to be available for the hearing. On arrival at Prince Rupert, he advised the sub-division NCO that he intended to plead guilty and this information was conveyed by the Crown Prosecutor to Mr. Justice H. S. Wood, who was to preside at the trial. In view of this unusual development, the attendance of two psychiatrists, Drs. E. A. Campbell and D. C. McDonald was ordered, Dr. Campbell having recently examined Cunningham while he was at Oakalla Prison Farm awaiting trial. The accused was examined by both doctors on the day preceding the trial which opened on May 12.

When the proceedings commenced the following morning, the Court observed that Cunningham had no counsel, and advised him that counsel could be assigned him if he wished.

ACCUSED "No, I don't wish counsel, I have got no defence, your lordship."

COURT "Do you wish to proceed with the case now?"

ACCUSED "Yes, your lordship."

The charge was then read, and Cunningham was asked by the Court if he

wished to plead to that charge. He stated his assent.

COURT "You said you have no defence. That makes me anticipate the plea you have in mind. Do you know the difference between murder and manslaughter?"

ACCUSED "Yes, your lordship."

COURT "How do you plead to that charge?"

ACCUSED "I plead guilty, your lordship."

The Court carefully explained to Cunningham that it was not usual to accept a plea of guilty on such a charge; that although the accused offered no defence, the burden still rested on the Crown to prove it. Asked if he fully understood the implications, he answered yes. Crown counsel, in response to his lordship's question, stated that he had had a long conversation with Cunningham a few days previously, explaining to him the consequences of a guilty plea and the mandatory sentence that would follow.

The evidence of the two psychiatrists who had examined the accused was then heard. Both stated that he possessed an educational standard equivalent to high school or first year university, was mentally fit to understand the plea to the charge and to realize what the consequences were. His lordship, who questioned the doctors closely and at length during their testimony, referred to the English case of *R. v. James Robert Vent*, reported in Vol. 25 of the Criminal Appeal Reports, in which the following statement by Mr. Justice Avory appears: "It is only in a case where there is some reason to doubt whether an accused person appreciates the nature of his confession and the consequences resulting from it that a jury is impanelled to try that issue." His lordship also referred to the case of *R. v. Bliss*, an Ontario case heard before Mr. Justice Jeffrey in Ontario Supreme Court in 1936, reported at 67 C.C.C. page 1. A plea of guilty was accepted here in similar circum-