

Courts Martial documents

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HEADQUARTERS
AUSTRALIAN ARMY
A 51/6/7 Army Form A. 2.

****Form of Proceedings for General, District and Regimental Courts-Martial.**

Proceedings of a *General* Court-Martial held at *HCOZ*
on the *17* day of *April* 1919 by order of *Major Gen*
Ed Sinclair Mackenzie Commanding *Abw Group* and
dated the *17* day of *April* 1919.

Major Gen Ed Sinclair Mackenzie President *Cong 250*
100.72 am 10/10/19

Members.
Lt Col Asallan *13th am 10/10/19*
Major G. Smart *4 - 10/10/19*
Webster *4 - 10/10/19*
Major H. L. Swain *49 am 10/10/19*

Additional Members.
Capt D. S. Anderson *16th am 10/10/19*
V.S. New *49*

Major C. L. Savon Duff *1st am 10/10/19*
Judge-Advocate.

Trial of *Lt Melba Buzzard* *12 am 10/10/19*
At *o'clock* the Trial commences.

(1) The order convening the Court is read, and is marked *A*
signed by the president, and attached to the proceedings.
The charge-sheet and the summary of evidence are laid before the Court.
The Court satisfy themselves that *Major H. L. Swain* is not available
to serve owing to *demobilisation and Capt Anderson*
16th am 10/10/19, waiting member takes his place as a member of the Court.
The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

(2) *Lt J. S. Murray* *1st am 10/10/19*
appears as prosecutor, and takes his place.

The above-named, the accused, is brought before the Court.
Lt L. S. Murray *1st am 10/10/19* appears as counsel for the accused.

The names of the president and members of the Court are read over in
the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.
Do you object to be tried by me as president, or by any of the officers
whose names you have heard read over?

Answer by accused.
No

(N.B.—If objection is made it should be recorded, together with the decision
of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Battalion and Regiment, and Appointment (if any).
† Here insert name and qualification.

(1)

W 12007 M 1420 25,000 5/11/19 H.W.V. (Sch. 172) Form A. 2.

CHARGE SHEET.

The accused, Lieutenant MILIAN BELLARD, 12th. Army Brigade,
Australian Field Artillery an Officer of the Australian Imperial
Force is charged with:-

First Charge
A.A. Sec II

Neglecting to obey a General Order, in that he on the 30th.
day of December 1918 accepted a payment of £57/10/0, which
caused to be further overdrawn his active pay according to
the amount which appeared in his paybook contrary to
A.I.F. Order No. 723.

Second Charge
A.A. Sec II

Neglecting to obey a General Order, in that he on the 30th.
day of December 1918 accepted a payment of £1/14/6d, which
caused to be further overdrawn his active pay according to
the amount which appeared in his paybook contrary to the
A.I.F. Order No. 723.

Third Charge
A.A. Sec II

Neglecting to obey a General Order, in that he on the
24th. Day of February 1919 accepted a payment of £5/15/0
which caused to be further overdrawn his active pay
according to the amount which appeared in his paybook
contrary to A.I.F. Order No. 723.

GOSWICK, BELGIUM,
15th April 1919.

W. H. Dungen.

Brigadier-General,
Commanding 4th. Australian Divisional Artillery.

To be tried by a General Court Martial.

GOSWICK,
BELGIUM,
15th April 1919.

S. A. Sinclair MacLagan
Commanding "A" Australian Divisional Group.

W. H. Dungen
P.C.

President. G.C.M.

17/4/19.

2
B

The president, members, and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet.

(3) The charge-sheet is signed by the president, marked B 2 and annexed to the proceedings.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (b) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question is the accused.*

Not Guilty

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Not Guilty

Answer.

B. Miller
The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 33 (B) are here complied with.

If the trial proceeds upon any charge in which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on those other charges, such finding being recorded on Sheet C. *Instruction.*

Charge Sheet (and Millar's response)

Proceedings on Plea of Not Guilty.

(3) The prosecutor makes the following address (reads in a written

address, which is read, marked, signed by the president, and

attached to the proceedings)

Prosecutor does not desire a note of his address

The prosecutor proceeds to call witnesses.

First witness for
prosecution

No 37344 David John Williams Australian
Army Pay Corps

being duly sworn, is examined by the prosecutor.

I know the accused. I am familiar with
his signature. I produce paybook no
92845 which bears the signature of the
accused (marked R.C.C.). I also produce
acquittance roll bearing the accused
signature for the payment of £57-10 and
£1-14-6 on 30th December 1918 (Ex B)

Accused friend declines to cross-examine
Rule 8 & 9 complied with

Second witness
for prosecution

Lt Bram Edward Purcell Cohen
12th Army Brigade M.T.

being duly sworn is examined by Prosecutor

I am the Adj. of the 12th Army Brigade. I
produce certified copy of M.T. order 723. (Ex E)
This order was available for the
perusal of the accused as well as all
other officers in the Brigade orderly
Room.

Accused friend declines to cross-examine
Rule 8 & 9 complied with

D

7.

The prosecution is closed.

Defence.

Question to the
accused.

Do you apply to give evidence yourself as a witness?

Answer.

yes

Question

Do you intend to call any other witness in your defence?

Answer.

Yes

No

Question

Is he a witness to character only?

Answer.

Yes, B. 187.

(7) [If the accused gives evidence himself, but calls no other witness to the facts of the case, his evidence will now be taken on a separate sheet.]

(6 & 7) [The prosecutor addresses the Court upon the evidence for the prosecution (and the evidence of the accused) as follows:—

(Hands in a written address, which is read, marked, signed by the president, and attached to the proceedings.)]

Question to the
accused.

†(6, 7 & 8) Have you anything to say in your defence?

Answer

The accused in his defence says—

[Hands in a written address, which is read, marked, signed by the president, and attached to the proceedings.]

Instruction

* If the accused calls other witnesses to the facts of the case, whether he himself gives evidence or not, this paragraph will be struck out, and the course laid down in R.P. Appendix II. (8) will be followed.

† This question will always be asked, unless the accused has himself given evidence and is represented by counsel or by an officer having the rights of counsel, in which case such counsel or officer only will be entitled to address the Court.

(3)

Do you wish to give evidence yourself or to call any witnesses as to character? Question in the
answer.

yes

Answer.

*Evidence as to
character.*

Lt Bram Edward Murray Purcell Cohen
(being recalled) states —

I have served as a gunner under
the accused. He was respected by
all the battery. Since receiving my
commission I have been closely
associated with him. His character
is in every sense exemplary.

(11)

E
Finding.*

(10) The Court is closed for the consideration of the finding.

(10 and 11) The Court find that the accused

Lieutenant Melrose Byrard 12th Army Bn. Aust. Inf. Bn.
Guilty on both charges 1 & 2
and not guilty of charge 3.

*Compare
with
1911*

PROCEEDINGS ON CONVICTION before Sentence.

(12) The Court being re-opened, the accused is again brought before it

*Evidence of
character, &c.*

The Prosecutor is duly sworn.

*Question by the
president.*

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness. Yes*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked *F*, signed by the president, and annexed to the proceedings.

*Question by the
president.*

Is the accused the person named in the statement which you have heard read? *Answer by the Witness. Yes*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer. Yes*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer. Yes*

Cross-examined by the Accused.

Accused declines to cross-examine

Illustration - If by reason of the nature of the service of the accused in a departmental corps or otherwise, the finding of the court renders the case in any exceptional position as regards the usual rules of evidence, the president may, at the request of the accused, direct that the evidence be taken in a special manner, and may, if he thinks fit, direct that the evidence be taken in a special manner, and may, if he thinks fit, direct that the evidence be taken in a special manner.

Question to the accused.

Do you wish to address the Court? *Answer. No*

The Court is closed for the consideration of the sentence.

* To be omitted, except in cases of a plea of Not Guilty having been proceeded with.

12

F

Sentence.

The Court sentence the accused *Lieutenant Muller Daggard* *12th Army Field Artillery Regt*
to be Reprimanded. Sentence
Reprimand

Signed at *Beoy* *Belgrade* this seventeenth day of April 1919

Chavan. Duff mjr
Judge Advocate

W. Robert Thomas
R.G.

17/4/19

President

Minute of Confirmation.

(Extracted from War Office papers No. 121/B/3623)

On Submission dated the 14th August 1919, His Majesty the King was pleased to confirm the finding and sentence of the Court, and to command that the sentence be carried into effect.

War Office
London S.W.1.
18th August 1919.

W. R. C. C. Sc.
Lieutenant Colonel
Assistant Adjutant General.

Proclamation
Signed at *Sutton Vengy* this 2nd day of September 1919.
W. Robertson

Gen.
G.O.C., A.I.F. Depot in U.K.

Extract taken at *Sutton Vengy* this 2nd day of September 1919.
W. Lawrence
Officer in charge of Documents
A.I.F. Depot in U.K.