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CLIENT REPORT

Client: Morna Kenworthy

Date: 03.03.11

WO71/285 Court Martial Proceedings

Proceedings of a General Court Martial held by Order of His Excellency Major General Sir Archibald Campbell Bart GCB Commanding His Majesty's Forces in Nova Scotia, and its Dependencies, at Fredericton, New Brunswick 8th March 1834.

President

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Lieut Colonel Charles Barker Turner K H Inspecting Field Officer

Members

- -

Major Richard Greaves	-	34 th Regiment
Captain Edward Conolly	-	34 th Regiment
Captain George Ruxton	-	34 th Regiment
Captain Bridges J Hooke	-	34 th Regiment
Captain Henry Stanway	-	Royal Artillery
Lieutenant Nicholas R Brown	-	34 th Regiment
Lieutenant Edward Broderick	-	34 th Regiment
Lieutenant William O Colt	-	34 th Regiment
Lieutenant St George Lysters	-	Royal Engineers
Lieutenant Thos Wm Howe	-	34 th Regiment
Ensign Osborne Markham	-	34 th Regiment
Ensign John Styles Morris(?)	-	34 th Regiment

Deputy Judge Advocate

George Ledingham , Paymaster, 34th Regiment

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The Prisoner having been brought into Court, and the Warrant appointing the President and Deputy Judge Advocate having been read, the names of the Members of the Court were called over, and the Prisoner to be tried having made no objection to any of them, the Court and Deputy Judge Advocate were Severally Sworn –

The Court then proceeded to the trial of Private Benjamin Burman of Captain Hooke's Company, 34th Regiment, confined on the following charges viz:

1st Charge

"The Deserting from the Head Quarters of his Regiment at Fredericton New Brunswick on the evening of the 1st March 1834: and not returning till brought back a Prisoner on the morning of the 3rd of the same Month when he was dressed as a Civilian."

2nd Charge

"For disobeying the lawful commands of Lieutenant Hammond of the 34th Regiment when in the execution of his duty, and for attempting to escape from that Officer and Lance Corporal Bruce of the 34th Regiment after he had been called to by name, and ordered, both by Lieutenant Hammond and Lance Corporal Bruce to give himself up."

Question to the Prisoner

You have heard the charges which are preferred against you, how say You, Guilty, or not Guilty?

Answer

Not Guilty.

1st Evidence for the Prosecution

Lance Serjeant Coulton, 34th Regiment, being duly sworn, states to the Court, that he called the roll of Captain Hooke's Company at Tattoo on the evening of the 1st March 1834, when the Prisoner was absent, and that Evidence was one of the Party sent in pursuit of him and others – that the Prisoner was overtaken by the Party and taken Prisoner on the 2nd March, and was brought to Head Quarters and lodged in the Guard Room on the morning of the 3rd of the Same Month, the Prisoner being dressed as a Civilian.

2nd Evidence for the Prosecution

Lieutenant Philip Hammond, 34th Regiment being duly sworn, states to the Court that at Tattoo on the 1st March 1834, two men were reported absent (Burman and Little). – Evidence proceeded by order of Major Greaves, the Commanding

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Officer, together with Lance Serjeant Coulter and Lance Corporal Bruce, in pursuit of the two men on the road to Houlton (a frontier Town in the United States) – From information which the Evidence received on the road, he proceeded as far as Jones's, a place about fifty Miles from Fredericton, where Evidence arrived about an hour after day light next morning. – Saw in Jones's Yard a Covered Sleigh, which he examined, and found in it some Regimental Necessaries, such as flannel Drawers and one pair of Boots. – From the information Evidence received, Evidence with Lance Serjeant Coulter and Lance Corporal Bruce, got into the covered Sleigh, and compelled Russell, the Driver, to proceed on the road towards Houlton. – After going about three miles on the road, overtook three men, and stopped the Sleigh. Burman, the Prisoner, that moment came up to the door of it, with the intention of getting in; Evidence and his party then jumped out, Evidence having fallen when doing so. – On getting up, he discovered the three men running off in different directions. Evidence called out to the Prisoner several times, to stop, saying "Stop Burman, you are my Prisoner". – The Prisoner, however, ran on, on his doing so, Evidence snapped a Pistol at him, when seeing Lance Corporal Bruce pursuing him, Evidence turned after another man. – did not see him again until Evidence's return to Jones's where he found him in custody of Lance Corporal Bruce, dressed in plain cloathes. – Evidence then returned with him and the other two Prisoners to Fredericton on the morning of the 3rd instant, when Evidence lodged the Prisoner in the Guard room.

3rd Evidence to the Prosecution

Lance Corporal John Bruce, 34th Regiment being duly sworn, states to the Court, that on the evening of the 1st March 1834, he was ordered by Major Greaves, his Commanding Officer, to accompany Lieutenant Hammond on the road to Houlton (a frontier Town in the United States) in pursuit of Benjamin Burman and George Little. – Evidence and the Party proceeded about fifty Miles above Fredericton, and arrived at Jones's about Seven o'clock next morning. – On getting there, they found a covered Sleigh, and Russell, who was the Driver, was in the act of putting his Horses to it. Evidence and his party immediately surrounded it, thinking the Men they were in pursuit of were in it. – On opening the Sleigh doors, there were found in it three large Bundles, which contained Soldiers Necessaries, and One pair of Soldiers Boots was also inside. – Russell, the Driver, then said "they are not here, they are on in front", - Lieutenant Hammond then ordered Lance Serjeant Coulter and Evidence to get into the Sleigh Lieutenant Hammond accompanying them, Lieutenant Hammond at same time ordering Russell to drive on. – They then went about three miles on the road, when Russell said to Lieutenant Hammond "here they are" – On the Sleigh being stopped, the Prisoner came to the door, and opened it, when Lieutenant Hammond said "Burman You are my Prisoner" on which, the Prisoner ran off, when Lieutenant Hammond presented a Pistol at him, which missed fire. – On the party getting out of the Sleigh some confusion occurred and Lieutenant Hammond fell. – the

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Evidence then got out and seeing the Prisoner running off, immediately pursued him, calling out to him three different times "Burman Stop, You are my Prisoner" the Prisoner then took to the Woods, when Evidence fired his pistol at him, but it missed the Prisoner – Evidence continued pursuing him thro' the Woods, for about three quarters of a mile, when the Prisoner took to the Ice on the River, where he fell, and the Evidence came up with him, and took him. – Evidence then ordered the Prisoner to rise up, and march about Six Yards in front of him, saying if he put his hands into his pockets Evidence would shoot him, Evidence understanding the Prisoner had Fire Arms, the Prisoner answered he had none. – Evidence then marched him to Jones's, and kept him in a room there till Lieutenant Hammond joined him, when Evidence gave the Prisoner up to Lieutenant Hammond.-

Question by the Court

When you came up with the Prisoners, did Russell, the Carman, appear, by any act towards his Horses, or otherwise, to wish to favour the escape of the Prisoners?

Answer

No, I do not think he did. Russell let the reins go in the confusion, and the Horses ran away.-

The Prosecution having here closed, the Prisoner is put on his defence, who says the he was induced to go away, by the persuasion of Richard McBrian a civilian who accompanied him and the others. –

1st Evidence for the Defence

Captain Hooke, as Member of the Court, having left his seat, and been duly sworn, states to the Court, that the Prisoner has been in his Company for nearly four Years, during which time, Evidence has always considered a most excellent character.-

2nd Evidence for the Defence

Lieutenant Colt, a Member of the Court, having left his seat, and been duly sworn, states to the Court, that he has known the Prisoner for the last six months, during which time Evidence has always considered the Prisoner a good and steady soldier, and a man of excellent character.-

3rd Evidence for the Defence

Paymaster Ledingham, officiating Deputy Judge Advocate, having left his seat, and been duly sworn, states to the Court, that the Prisoner was his Servant very nearly four years, during which time, Evidence found him an upright, faithful, sober, honest man,- he was always respectful, and could always be depended on, and no man in his situation if life could be more respectable than he was

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whilst in the Service of Evidence, the Prisoner left it in the beginning of January last, in consequence of his having got married to a Woman who was in Evidence's service, without the Commanding Officer's permission.-

Serjeant Major John Sheard 34th Regiment being duly sworn, states to the Court, that he has known the Prisoner since he first joined the Regiment, which is upwards of seven Years, and has always considered him one of the very best men in the Regiment. Evidence further states, that his name never appeared in the Defaulters Book, nor has he ever been confined except on the occasion of his marrying without leave.-

Opinion and Sentence

The Court having maturely weighed and considered the Evidence in support of the Prosecution, together with what the Prisoner has brought forward in his defence, is of the opinion with respect to the first charge – viz –

“For deserting from the Head Quarters of his Regiment, at Fredericton, New Brunswick on the evening of the 1st March 1834, and not returning till brought back a Prisoner on the morning of the 3rd of the same month, when he was dressed as a Civilian.” –

That he is Guilty thereof. –

And with respect to the second charge - viz –

“For disobeying the lawful commands of Lieutenant Hammond of the 34th Regiment, when in the execution of his duty, and for attempting to escape from that Officer, and Lance Corporal Bruce of the 34th Regiment, after he had been called to by name, and Ordered both by Lieutenant Hammond and Lance Corporal Bruce to give himself up.”

That he is Guilty thereof.-

The Court having found the Prisoner Guilty of both the charges preferred against him, which being in breach of the Articles of War does by virtue thereof sentence him the aforesaid Private Benjamin Burman of Captain Hooke's company 34th Regiment, to be transported as a Felon for life, and to be marked with the letter D agruably (?) to the manner purscribed in the Mutiny Act.

George Ledingham Paymaster 34 Regiment
Officiating Deputy Judge Advocate

C B Turner

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Lieut Colonel and President

WO12/4893 Pay Roll and Muster Books 34th Regiment of Foot

Private Benjamin Burman.
Regimental Number 624
Rate of pay 1s 0d per diem

"Payments made at Head Quarters to complete the levy money of recruits enlisted by the different recruiting parties, and finally approved"

No: 624

Name: Benjamin Burman

Date of enlistment: 3 January

Name of Officer commanding the enlisting party, and of the Recruiting District: Lt. Foy Leeds District

3rd Part of the Bounty paid to the Recruit, paid on final approval: £2 10s.

Paid to the party of person conducting the recruit to head Quarters: 2s. 6d.

Total of levy money: £2 12s. 6d.

Dates	Days	March 1 st Muster	2 nd Muster	3 rd Muster
Regiment at NB				
23.02.1828-24.03.1828	30			
Dublin				
Recruit from Leeds District				
25.03.1828-24.06.1828	92	5*	Detachment	Detachment
Templemore				
25.06.1828-24.09.1828	92	3**	Detachment	Detachment
Galway				
25.09.1828-24.12.1828	91	8***	Detachment	Detachment
Galway				

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Marches:

- * Dublin to Nenagh 95 miles 21st-25th May
- ** Nenagh-Templemore-Nenagh 38 miles 23rd -24th July
- Nenagh-Newport-Commonfort 34 miles 11th-12th September
- *** Templemore-Roscrea 11 miles 24th September
- Roscrea- Galway 84 miles 24th -29th September
- Galway – Outinarch 18 miles 1st October

WO12/4894 Pay Roll and Muster Books 34th Regiment of Foot

25.12.1828-24.03.1829	90				
Cork					
25.03.1829-24.06.1829	92	1*	Detachment	Detachment	Detachment
Cork					
25.06.1829-18.08.1829	55		Detachment	Embarked for	
Cork					
				Halifax 25 th July	
				Per "Ann of Amelia"	
24.08.1829-24.09.1829	37		"Ann of Amelia"		
Halifax, Nova Scotia					
25.09.1829-24.12.1829	91				
Halifax, Nova Scotia					

March:

Cork-Inverroon 24 miles 13th April

WO12/4895 Pay Roll and Muster Books 34th Regiment of Foot

25.12.1829-24.03.1830	90
Halifax, Nova Scotia	
25.03.1830-24.06.1830	92
Halifax, Nova Scotia	
24.08.1830-24.09.1830	92
Halifax, Nova Scotia	
25.09.1830-31.12.1830	98
Halifax, Nova Scotia	

WO12/4896 Pay Roll and Muster Books 34th Regiment of Foot

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01.01.1831-31.03.1831 91
Halifax, Nova Scotia
01.04.1831-30.06.1831 91
Halifax, Nova Scotia
01.07.1831-30.09.1831 92
Halifax, Nova Scotia
01.10.1831-31.12.1831 92
Halifax, Nova Scotia

WO12/4897 Pay Roll and Muster Books 34th Regiment of Foot

01.01.1832-31.03.1832 91
Halifax, Nova Scotia
01.04.1832-30.06.1832 91
Halifax, Nova Scotia
01.07.1832-30.09.1832 92
Fredericton, New Brunswick

01.10.1832-31.12.1832 92
Fredericton, New Brunswick
01.01.1833-31.03.1833 90
Fredericton, New Brunswick

On passage from

Halifax per HMS
Winchester 14th
To 20th August

WO12/4898 Pay Roll and Muster Books 34th Regiment of Foot

01.04.1833-30.06.1833 91
Fredericton, New Brunswick
01.07.1833-30.09.1833 92
Fredericton, New Brunswick
01.10.1833-31.12.1833 92
Fredericton, New Brunswick
01.01.1834-01.03.1834 60

Deserted at Fredericton
1 Mar. Rejoined 3 March.
Tried by a General Court
Martial. In confinement to
31 March awaiting confirmation
of the sentence

WO12/4899 Pay Roll and Muster Books 34th Regiment of Foot

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01.04.1834-30.06.1833
Fredericton, New Brunswick

In Guard Room from 1 April

to 30 June awaiting confirmation
of the sentence of the General
Court Martial

01.07.1834-30.09.1833
Fredericton, New Brunswick

Tried by a General Court

Martial and sentenced to be
Transported for Life, which
Sentence was commuted by
His Majesty to Transportation
For 14 years. In strong room at
St John 29th July to 15th Aug, when
He embarked for Halifax previous
To Transp. To New South Wales

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