

Major in Prout Court Martial In Contempt

DW 11/27/40.

Witness Balky in Case of Gov't Ammunition to Christian Front

By John Meldon

Court-martial proceedings being held in the Squadron A Armory here by a nine-man court of the N. Y. National Guard against Capt. John T. Prout Jr., who earlier this year signed a confession with the FBI that he had given 1,800 rounds of Guard ammunition to fascist Christian Front leader William Gerald Bishop, took a dramatic and ominous turn Wednesday night.

Bishop, a henchman of fascist Father Coughlin, is now at liberty under bail, but faces possible retrial in federal court on charges of conspiracy to overthrow the government, and for receiving government ammunition from Capt. Prout.

Capt. Prout was tried at the same time in federal court under the two counts and was acquitted on the charge of conspiracy to overthrow the government. He faces a retrial on the theft charge.

The military trial now going on, while forced to introduce into evidence Capt. Prout's intimate connections with the Christian Front, is not, however, prosecuting him on the more serious charge of consorting and plotting with avowed enemies of the government and the

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American people. The military prosecution has confined its charges to the accusation that Capt. Prout "gave away Government property."

The military trial Wednesday suddenly switched from its humdrum and routine nature when Col. H. Russell Drowne, president of the court, took over interrogation of witnesses from Lieut. Alfred J. Mungo, trial judge advocate, and brought out:

1. Two main prosecution witnesses, Major John J. Rhatigan and Lieutenant Herman Lutz, who has been called up from the 165th Infantry Regiment, now stationed at Fort McClellan, Anniston, Ala., to testify against Capt. Prout, had immediately gotten in touch with Capt. Prout's defense counsel upon arriving in town before appearing to testify.

2. That Major Rhatigan and Lieutenant Lutz were both considered by the military court as "hostile witnesses" for the prosecution and had "acted very strange," as though "they were afraid of something."

3. That Major Rhatigan's action of returning to his regiment in Alabama despite instruction from the military court to remain in New York for further testimony, had resulted in his being held in contempt.

PROUT GAVE ORDERS

It was during these revelations by the court president that Capt. Prout jumped to his feet and made the peculiar statement that he had "ordered" the witnesses to testify. In view of the fact that Major Rhatigan outranks Capt. Prout, the latter's admittance that he had given orders to a superior seemed rather unusual.

Col. Drowne, in his comments on behalf of the court, recalled the actions of Major Rhatigan (who was regimental supply officer at the time Capt. Prout is accused of having given Bishop government ammunition) when Major Rhatigan appeared on the witness stand last Friday as a prosecution witness.

At that time, Col. Drowne pointed out, Major Rhatigan found that he couldn't read the regimental records he brought with him because he had "left his glasses in Alabama." The regimental records were sent to New York with Major Rhatigan for use by the prosecution to trace the supply records of ammunition in the regiment armory at the time Capt. Prout is charged with giving 1,800 rounds for the terrorist leader Bishop.

When Major Rhatigan found he had forgotten his glasses, Col. Drowne stated with emphasis, he had been instructed by the court to secure another pair in New York, or get someone to read the records for him and be prepared to testify again last Monday night.

CONFLICT WITH OFFICERS

It was at this point of Col. Drowne's remarks which were tinged with sharp annoyance, that he also revealed a conflict had developed between the military court and commanding officers of the 165th Infantry Regiment, over precedence. Col. Drowne said that he checked with Maj. Gen. William T. Haskell and found that Major Rhatigan left New York to return to Alabama at orders of his regimental superiors.

Last Sunday, the day before Major Rhatigan was due to report back to the military court equipped with glasses to read from his regimental records, he sent a telegram to Col. Drowne saying that he had been ordered back to Fort McClellan and was leaving on the 9:30 train that morning. Col. Drowne said he did not receive the telegram until after Major Rhatigan was on his way south.

In view of the court's opinion that it holds precedence over a witness, Col. Drowne said Major Rhatigan, despite orders to return, would be held in contempt. The order was forwarded to Brig. Gen. Ames T. Brown, Adjutant General of the N. Y. State National Guard, for action.

HOLD 3 IN CONTEMPT

The contempt order against Major Rhatigan makes him the third member of Capt. Prout's 165th Regiment to be held under those charges since the military trial began. The other two cited for contempt for refusing to testify against Capt. Prout, on grounds they would jeopardize their constitutional rights and possibly incriminate themselves, were sergeants William A. Hill and Theodore R. Naimoli.

The nine-man court Wednesday night rejected a motion by civilian defense counsel Parnell J. T. Callaghan who asked dismissal of the charges against Capt. Prout. The defendant is being tried under sections 95 and 96 of the Articles of War. The first charge reads that Capt. Prout "did willfully, unlawfully secure, secrete and give away 1,800 rounds of ammunition valued at \$63, the property of the United States Government."

The second charge states Capt. Prout "did commit conduct prejudicial to the good of the discipline of the armed forces."

The military court also turned down a defense motion to strike from the records a signed confession by Capt. Prout which the Federal Bureau of Investigation introduced in the federal trial against Capt. Prout and a group of Christian Front terrorists last June.

In the federal trial, Capt. Prout was charged with conspiracy to overthrow the government, and theft of government property. He, along with members of the Christian Front, was acquitted on the first charge and faces retrial on the second charge. The federal retrial had been repeatedly postponed.

In the current military trial against Capt. Prout, while the prosecution has confined its charges

to the two mentioned, it has had to bring forth testimony by witnesses and documents purporting to show that Capt. Prout, at the time the ammunition disappeared, was friendly with Christian Front terrorist William Gerald Bishop and attended meetings with Bishop. The prosecution has also introduced into evidence the confession secured from Capt. Prout by the FBI that he, Prout, had advised the terrorists on bomb-making.

The case will be continued next Thursday when the military court convenes at 7:30 P.M. at Squadron A Armory.