

Dear Ones,

It has been a terrific day - the routine of rushing around and keeping our cargo moving at the call of the Port was broken by a three hour court martial session. The trial did not go well - I felt and many of the others did as well that Major Moore was not entirely fair in his treatment of the objections of the defense, though I will admit that he did give me some leeway in my arguments in mitigation. Stout was not at all pleased with the conduct of the trial either. The court sentenced Flinn (after finding him guilty) to a DD, three years of hard labor, and full forfeiture of pay and allowances. Stout asked for 5 years and I thought the court ~~would~~^{might} agree; I was hoping for two but I thought that 3 would be the logical decision because of the make-up of the court. The trial began at 1 - I had to rush out of my fatigues, wash, and dress in a big rush but I was there on time. There were no challenges - and the early routine went off smoothly. Upton, the New Zealander, was the first witness and Stout got the story out of him. In cross examination, Moore let me go for a while, but he limited my questioning - and the result was that I did not fully point out the weakness of the Upton testimony: his failure to identify his first contact, his failure to admit to any accomplices on his part or on Flinn's, his meaningless responses to my small questions which I intended to use to discredit the witness. The rub was that I was told to stick to the specific issues and my attempt to discredit Upton did not hit home with full force. Moore was obviously (even that early in the game) in full sympathy with Stout's definition of the government's case and not allowing my ~~various~~ unsubtle emphasis on mitigating circumstances. The second witness was Hoggatt who took Flinn's confession. The whole defense depended on being able to show that although there was no coercion or force or threat or promise before the Flinn statement there was duress - I was trying to discount the importance of the statement made by Flinn; I tried to show the injustice of the situation in which Flinn did not have the advice of counsel and was not fully aware of the position he was in. But Moore stepped on me fast - and in no uncertain terms: I was handling all the questioning and I thought Horvath was going to bust in indignation and anger - later on he did jump up in objection and spoke at length and Moore must have had contempt in mind. During the Hoggatt question^{we} I argued a little strenuously too, for it was a crucial point for our entire case - I will say that I did not raise my voice, which surprised me! Anyway after we were through with Hoggatt, our entire case was pretty well lost and it was pretty clear: we had decided to build our case on the surrounding circumstances - and that angle was denied to us, for all effective purposes. The discrediting of Upton failed because of it, as did the creation of the proper (for the defense) picture of the circumstances bearing on Flinn's guilt. If we had gone through Upton as planned, we could have worked on the angle of not putting Flinn on the stand at all and showing that the prosecution had no creditable witness. But our dilemma was obvious and we had to bull it through. Things got a little rough - Flinn proved he was no dope on cross-examination - but his flair for contradiction in sworn statements did not help our cause. I did make my plea, but it was only too evident that my arguments were not striking home since the Court had channeled the entire case into the limited questions of specific guilt and had denied (to too great an extreme, I feel) the introduction of evidence of mitigating circumstances, particularly the guilt of others involved. It is my feeling that a lawyer could have presented a better and firmer defense, but my failings in question of evidence and legal know-how, not to mention my inability to get around the hostile attitude of the Court, were balanced by the leniency of the court. He could have got the full 5 years easily. (I should comment that no civilian watchman would get 5 years for participating in the stealing of just \$150 worth of goods - but there is not a bit of comparison between military and civilian law.) And so that is that ... I wonder what the reviewing authority will decide.

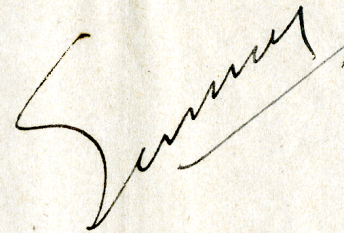
I feel as though I could write at great length about military justice - it has peaked my curiosity for the study of law. The military theory is not justice - it is that the man is guilty unless proved innocent; justice must be defined in the 200 odd pages of the Manual for Courts Martial and that is the entire criterion. The tables of punishments are automatic and mandatory to a great extent. I also feel that judgment by a group of peers should be introduced so that an enlisted man would not be wholly at the mercy of the decisions of an officer group.... but it is getting late and I am dead tired - the pile of letters to be answered grows larger every day and I still see no light. I will have to save my revisions on Military justice for a later period - I hope to heaven that there are no more General Courts on Santo. I couldn't stand a steady diet of defense work under the conditions of today's trial.

I just heard the horrible news - the most important game of the day - and Yale emerges on the very big end of a 28-0 score,, ouch - oh, well, Next Year - that's the old battle cry as I recall. I hope I am back by then. This evening I wandered over to see Bob Rauth about the cancellation of our work for tonight and I spent a half an hour with a group of three of the men bitching about the abandonment of the point system. The other two have 48 and 49 points and two years overseas; Bob has 49 and 18 months overseas and I have 46 and Bob and I were on the same boat. No doubt about it the guys overseas are getting the raw deal - of course the men are infinitely much better off than the officers in my spot!!

OK for now - I won't even attempt to answer any of your letters - I have a toothpick holding up my eyelids -

All my love,

Regards to Doris.

A handwritten signature in dark ink, appearing to be 'Samuel', written in a cursive style with a long horizontal stroke at the end.