

TUESDAY MAR 9 1948

NOTE

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Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 9th March, 1948.

2 4/29/48

The Committee of the Privy Council submit for Your Excellency's information the report of the Commission, appointed by Order in Council of the 4th December, 1947 (P.C. 4980) to inquire into complaints of Mr. Walter H. Kirchner, Secretary of the Canadian Combat Veterans Association, regarding pension and treatment services.

[Handwritten signature]

Clerk of the Privy Council.



MINISTER OF NATIONAL REVENUE
CANADA

OTTAWA, February 12, 1948.

The Minister of Veterans Affairs,
Daly Building,
O t t a w a.

My dear Colleague:

Pursuant to the terms of Order in Council P.C. 4980 of December 4, 1947, as amended by Order in Council P.C. 75 of January 8, 1948, I have the honour to transmit herewith the Report of the Commission appointed under the provisions of Part I of the Inquiries Act to investigate complaints made by Walter H. Kirchner, Esq., M.C., D.C.M., Secretary, Canadian Combat Veterans Association, Inc., Vancouver, B.C.

Yours sincerely,

(Sgd.) J.J. McCann,
Minister of National
Revenue.

REPORT OF COMMISSION APPOINTED UNDER THE
PROVISIONS OF PART I OF THE INQUIRIES ACT
BY ORDER IN COUNCIL P.C. 4980 DATED
DECEMBER 4, 1947, AS AMENDED BY ORDER IN
COUNCIL P.C. 75 DATED JANUARY 8, 1948.

1. The following members of Parliament were appointed by Order in Council P.C. 4980 dated December 4, 1947, and Order in Council P.C. 75 dated January 8, 1948, as Commissioners under Part I of the Inquiries Act for the purposes hereinafter set forth:-

The Honourable James J. McCann, M.P.,
Chairman, Ottawa, Ont.,
Dr. M.E. McGarry, M.P., Margaree Forks N.S.,
Dr. W.G. Blair, M.P., Perth Ont.,
J.O. Probe, Esq., M.P., Regina, Sask.,
R.H. Winters, Esq., M.P., Lunenburg, N.S.,
in the absence of The Honourable James J. McCann, M.P.

F.L. Barrow, Esq., Ottawa, Ont., Departmental Secretary,
Department of Veterans Affairs, was Secretary of the Commission.

2. The purpose of the Commission was to investigate complaints made by Walter H. Kirchner, Esq., M.C., D.C.M., Secretary, Canadian Combat Veterans Association, Inc., Vancouver, B.C., regarding pension and treatment services and, in particular, to inquire into and report to the Minister of Veterans Affairs on

- (i) the adequacy of the treatment provided by the Department of Veterans Affairs with respect to the cases concerning which Mr. Kirchner has made representations;
- (ii) the qualifications and competence of Departmental doctors treating these cases; and
- (iii) the adequacy of pension consideration given to the cases concerning which Mr. Kirchner has made representations.

3. The Commission was authorized to sit at such times as it deemed necessary in any part of Canada.
4. The Commission held thirty-five sittings - twenty of the sittings being held at Ottawa, eight at Vancouver, and seven while travelling from Ottawa to Vancouver and during the return trip.

5. The Commission was charged with considering the cases of sixty-two veterans with respect to whom Mr. Kirchner had made representations. Subsequently, in giving his evidence at Vancouver, Mr. Kirchner presented one additional case in which it was understood that he had become interested only very recently.
6. The files of these veterans were fully studied by the Commission and, where necessary to supplement written evidence, witnesses were heard. In all, twenty-four witnesses, including Mr. Kirchner, were heard. (See Appendix "E").
7. In fifty-three of the sixty-three cases (see Appendix "D"), the Commission determined to its satisfaction, without proceeding beyond the evidence contained in the files, that there was no basis to substantiate the complaints within the scope of this investigation or indeed to substantiate any reasonable complaints. With respect to the remaining ten cases, the Commission considered it necessary before reaching its conclusions to examine certain witnesses at Vancouver, to inspect the facilities at Shaughnessy Hospital and to observe the techniques of the medical and surgical personnel there employed. To this end, the Commission held sittings at Vancouver on January 13th, 14th, 15th and 16th, 1948.
8. Of these ten cases, four (namely, H-6417 J.S. Beltz, R-160565 L.T. Campbell, V-52017 F.W. Connorton, L-50094 T. Jacobson) were cited by Mr. Kirchner with respect to the adequacy of the treatment services and the qualifications and competence of Departmental doctors; six (namely, 954 A.B.W. Crowhurst, 2383221 and 152508 H. Kerr, R-51564 E.J. Maxwell, K-50543 J.H. Mills, K-75736 A. Perfitt, V-86097 S.L. Walsh) were cited with respect to the adequacy of pension consideration.

9. As to the complaints concerning treatment--

- (a) The Commission carefully read the file record of the four cases mentioned in paragraph 8, heard Mr. Kirchner's representations and interviewed three of the veterans themselves. Furthermore, the Commission inspected in detail Shaughnessy Hospital, the George Derby Health and Occupational Centre and Hycroft Veterans' Home, and questioned medical and other staff. The medical members of the Commission observed surgical techniques at three operations.
- (b) The Commission is satisfied with, and finds no basis for complaint concerning, the organization, operation and facilities of Shaughnessy Hospital and the other institutions inspected.
- (c) The Commission is satisfied with, and finds no basis for complaint concerning, the qualifications of Departmental doctors. In two cases, veterans harboured resentment against the psychiatric service. Some lack of experience on the part of a junior psychiatrist and the inability of these patients to understand the reasons for psychiatric methods (although allegedly the reasons were fully explained to them) were factors which led to this resentment. The Commission is satisfied, however, that this did not detract from the professional value of the psychiatrist's work nor from the adequacy of the treatment. On the whole, the Commission is fully satisfied with the high degree of competence of all Departmental doctors.
- (d) The Commission found that the medical and surgical treatment and the results attained are quite satisfactory and of a high calibre - as high as in any hospital in Canada. The percentage of successful operations at Shaughnessy Hospital is, in the opinion of the Commission, well in line with that obtaining anywhere in the profession.

- (e) The Commission heard witnesses in support of complaints that the treatment of former prisoners-of-war of the Japanese was not adequate, but it was unable to find any evidence to support such complaints and was impressed with the careful and sympathetic manner in which these cases were handled by the professional staff of Shaughnessy Hospital.
- (f) The complaints of stigma associated with hospitalization in the psychiatric ward prompted the Commission to undertake a careful study of this phase of treatment. Although the Commission is satisfied that the methods employed at Shaughnessy Hospital are in accordance with the best accepted institutional practice, it stresses that the utmost care and sympathetic understanding must be accorded to the preferred class of patient, the Hong Kong prisoners. The Commission is satisfied that all cases were made the subject of consultation by the specialist staff and, on their recommendations, patients were moved to the psychiatric division. This was considered to be in the best interests of the patients.
- (g) The Commission was impressed with the extent of the disability suffered by some of the Hong Kong prisoners and is of the opinion that they are entitled in the matter of pensions to the most generous and liberal consideration.
- (h) Because of the emphasis placed by Mr. Kirchner on complaints arising out of low back pains and resulting disability, the Commission examined fully into these

cases. In many instances, the cause of these pains is diagnosed as Protruded Intervertebral Disc - the remedial measure being an operation to remove the intervertebral disc and effect a spinal fusion. It was established to the satisfaction of the Commission after detailed questioning of professional witnesses that, while the operation is not always completely successful, the percentage of successes at Shaughnessy is at least as high as that obtaining elsewhere. Back fusion is regarded as a major operation and is only undertaken at Shaughnessy Hospital after a consultation at which it has been decided that the operation is in the veteran's best interests and is likely to lead to improvement of his condition. The Commission wishes to comment particularly on the high qualifications and exceptional competence of the Neurosurgeon Specialists at Shaughnessy Hospital. Further evidence was sought with respect to particular types of back cases in which the Canadian Pension Commission's ruling was based on a finding of a pre-enlistment condition of congenital origin. The Commission realizes that it is difficult for a patient to appreciate the fact that, after many years of heavy labour without inconvenience or pain, the onset of disability could be due to a congenitally malformed spine. The Commission is satisfied, however, after hearing evidence, that such a condition can and does exist and that disabilities arise therefrom.

10. As to the complaints concerning pension --

(a) The complaint in the six cases to which reference was made in paragraph 8 of this Report all related to the

one point, namely, pre-enlistment conditions. Various charges against the Canadian Pension Commission have been made by Mr. Kirchner, such as "deliberate falsification of reports"; "being accessories to the fact in this criminal procedure"; "perjury"; "committing a felony" and "criminal irregularities". The Commission made a conclusive finding that in none of the cases examined does the record substantiate these charges or even suggest that a basis for the charges exists or that the case was carelessly handled. It may well be that errors appear in the records and, if so, they can normally be corrected by the machinery of the pensions legislation. After examination of witnesses and of the records themselves, the Commission is fully satisfied that there was no malicious or deliberate intent to deprive the veteran of his rights.

- (b) The Commission has carefully studied cases where the decision of the Canadian Pension Commission is in dispute - either as to the propriety of the finding that the disabling condition existed prior to enlistment and was aggravated during service, or, in the case of an admitted pre-enlistment condition, as to the adequacy of the fraction of aggravation which the Canadian Pension Commission has granted. The Commission heard witnesses and weighed differing views on this subject. The Commission realizes that the relevant sections of the Pension Act are difficult to administer and is aware that efforts have been made over the past years to formulate more specific language to convey the intent of Parliament.
- (c) It is emphasized that the six cases referred to in

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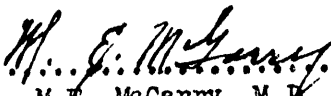
paragraph 8 are only a small percentage of those in which complaints were made by Mr. Kirchner. However, the Commission attaches importance to the fact that these six cases have not been dealt with to its entire satisfaction. The Commission holds the view that, even with an unchallenged record of a pre-enlistment incident, due weight should be given to the question of whether or not an appreciable disability existed at time of enlistment in the forces.

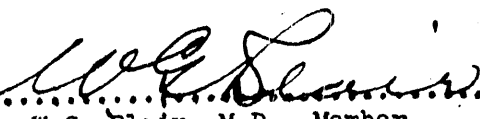
This Commission has noted the definition in Section 62 of the Pension Act of "benefit of the doubt" which requires the Canadian Pension Commission to draw all reasonable inferences and presumptions in favour of the applicant. This Commission is of opinion that the Canadian Pension Commission has not in all of these six cases invoked to the fullest extent the "benefit of the doubt" clause in dealing with this particular type of case. The Inquiry Commission is of the opinion that this legislation is intended to enable the Canadian Pension Commission to make a finding more favourable to the applicant in certain of the cases which it has examined.

The Commission noted that, in the administration of the Pension Act, the Canadian Pension Commission has dealt with many cases and in comparatively few do justifiable complaints arise. The Commission draws the conclusion that the Pension Act is administered by competent and conscientious personnel and that consideration of the applications is generally adequate.

11. With respect to the case of No. 8668', John Thom, the Commission has written answers to the questions which appear on Pages 5883 and 5884 of Hansard of July 16, 1947. These answers, together with the Commission's comments on certain allegations made by Mr. Kirchner in this case, are attached as Exhibit "C" to this report.


.....
James J. McCann, M.D., Chairman.


.....
M.E. McGarry, M.D., Member.


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W.G. Blair, M.D., Member.


.....
J.O. Probe, Member.

LIST OF APPENDICES

Appendix "A" - Order in Council P.C. 4980 of December 4, 1947.

Appendix "B" - Order in Council P.C. 75 of January 8, 1948.

Appendix "C" - Answers to questions, and comments concerning
allegations, in the case of No. 86684 John
Thom.

Appendix "D" - List of cases concerning which Mr. Kirchner
made representations.

Appendix "E" - List of Witnesses.

Appendix "F" - Report by Dr. W.P. Warner.

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 4th December, 1947.

The Committee of the Privy Council, on the recommendation of the Minister of Veterans Affairs, advise that the following members of the House of Commons be appointed Commissioners under the provisions of Part I of the Inquiries Act, Revised Statutes of Canada, 1927, Chapter 99, to sit, for the purposes hereinafter set forth, at such times as the said Commissioners shall decide in any part of Canada:

The Honourable James J. McCahn, M.P.,
Chairman, Ottawa, Ont.,
Dr. M.E. McGarry, M.P., Margaree Forks, N.S.,
Dr. W.G. Blair, M.P., Perth, Ont.,
J.O. Probe, Esq., M.P., Regina, Sask.

The Committee further advise:

1. That the Commission investigate complaints made by Walter H. Kirchner, Esq., M.C., D.C.M., Secretary, Canadian Combat Veterans Association, Inc., Vancouver, B.C., regarding pension and treatment services and in particular to inquire into and report to the Minister of Veterans Affairs on

- (i) the adequacy of the treatment provided by the Department of Veterans Affairs with respect to the cases concerning which Mr. Kirchner has made representations;
- (ii) the qualifications and competence of Departmental doctors treating these cases; and
- (iii) the adequacy of pension consideration given to the cases concerning which Mr. Kirchner has made representations;

2. That there shall be paid to the aforesaid members of the said Commission reasonable living and travelling expenses for days spent on the business of the inquiry, but only for such days when Parliament is not in session or when Parliament is in recess, as certified by the Chairman of the Commission.

3. That F.L. Barrow, Esq., Ottawa, Departmental Secretary, Department of Veterans Affairs, shall be Secretary of the Commission.

4. That any persons summoned to give evidence shall be paid actual transportation and travelling expenses; and

5. That costs incurred under this Order shall be charged to Departmental Administration.

A. D. P. Heeney,
Clerk of the Privy Council.

MD/7

P.C. 75

Certified to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 8th January, 1948.

The Committee of the Privy Council, on the recommendation of the Minister of Veterans Affairs, advise that Order in Council P.C. 4980 of the 4th December, 1947, be amended by adding immediately below the name of J.O. Probe, Esq., M.P., Regina, Sask., the following:

"R.H. Winters, Esq., M.P., Lunenburg, N.S.,
in the absence of The Honourable James J.
McCann, M.P."

(Sgd) A.D.P. Heeney

Clerk of the Privy Council.

ANSWERS TO QUESTIONS BY MR. QUELCH
ON PAGES 5883-4 OF HANSARD JULY 16, 1947
IN CASE OF 8668, JOHN THOM

1. Q. Did John V. Thom, M.M., No. 86684, 21st Battery, Canadian Field Artillery, enlist in the 1st great war, November 12, 1914, at Regina, Saskatchewan, classified physically A.I., with no mental or physical defects; age twenty-two?
 - A. Although not specifically classified A.I., no defects or physical disability noted on examination at Regina for enlistment at age 22 on November 12, 1914.
2. Q. Was he discharged April 9, 1919, completing four and a half years of service?
 - A. Date of discharge: April 5, 1919.
3. Q. Did he spend three years of this time in France as a combatant, in the forward areas of war, identified with the great battles of the Canadian army corps, and decorated with the Military Medal for bravery?
 - A. Embarked for France January 18, 1916.
Transferred to England December 29, 1918.
Awarded Military Medal July 18, 1917.
4. Q. Was he wounded May 12, 1917, but remained on duty in the line?
 - A. Wounded May 19, 1917; remained on duty.
5. Q. Did he suffer attacks of dysentery in September, 1918?
 - A. Yes.
6. Q. Was he blown up and buried by an exploding ammunition dump, from the direct hit of a German high explosive shell?
 - A. Ammunition dump explosion is not recorded on Mr. Thom's service documents but on June 9, 1917 he is recorded as proceeding to 1st Army Rest Camp and rejoining unit on June 23. The history of explosion in June 1917 is given in affidavit dated November 28, 1930 by Henry James Robbins of Vancouver, comrade of Mr. Thom's.
7. Q. Was he dug out of debris and earth by his comrades, in a semi-conscious condition, sick and vomiting and subsequently evacuated to a rest camp for several weeks to recover?
 - A. (See 6 above).
8. Q. Does his medical and military record and personal narrative of events show he never has recovered from that experience, although carrying on again in the line until the war ended?
 - A. The Canadian Pension Commission has ruled on the evidence that C.S.O.M. and neurasthenia were incurred during service.
9. Q. Did other members of his battery suffer similar injuries from the exploding ammunition dump?
 - A. There is some reference in Mr. Thom's file to injuries suffered by another soldier in the vicinity of the said explosion.
10. Q. Were several men of the battery killed by the same explosion?
 - A. (See 9 above).

11. Q. Are sworn affidavits of eye witnesses to these events recorded on John Thom's departmental file and in the files of the Department of National Defence?

A. See Mr. Robbin's affidavit dated November 28, 1930 on Mr. Thom's file.

12. Q. Was he certified by departmental specialists, February 24, 1919, as suffering from deafness in the right ear as a result of a burst ear drum from the ammunition dump explosion?

A. On February 24, 1919 an army specialist, Captain W. W. Hume, certified Mr. Thom to be suffering with defective hearing right ear. He gave it as his opinion that the condition was not present before enlistment and has been caused by service.

13. Q. Do not departmental files record a discharging right ear, with increased defective hearing, from demobilization in 1919 to April, 1927, at which time John V. Thom was granted a ten per cent pension for C.S.O.M. (deafness), as incurred on service?

A. In April, 1927, when Mr. Thom was granted a 10% pension for C.S.O.M. the Board of Pension Commissioners authorized pension at 5% retro-active to date of demobilization.

14. Q. Did John V. Thom claim pension for the following medically certificated conditions, arising out of his head injuries, as symptomatic of a general condition of total disability?

- (a) Persistent, severe headaches
- (b) Dizziness and vomiting
- (c) Nervous prostration
- (d) Labyrinthitis and
- (e) "General Neurosis" associated with chronic suppurative otitis media. (Nourasthenia)

A. Yes, although some of the conditions mentioned are taken from history given by Mr. Thom and incorporated in medical certificates.

15. Q. Does John V. Thom also suffer from the complete loss of sight in the right eye, as part of his head injuries, but for which he is not pensioned?

A. No, but eye specialist's report on August 11, 1947 shows vision of left eye 1'.

16. Q. Did the Canadian pension commission arbitrarily rule out of his claim all organic conditions of disability for pension consideration, and did they compel John Thom to apply for one condition, specified by them, without the organically related symptoms to support his claim?

No. Mr. Thom was discharged as fit in April, 1919, all systems being reported as normal. In 1927 he was granted entitlement on first application for defective hearing, retroactive to the date of discharge. There was then no evidence or mention of any other condition. He claimed in respect of headaches and nervousness in November 1930, for which disability he was then assessed at 5%. The grant of entitlement for defective hearing refutes any suggestion that the pension adjudicating body was obstructing or restricting this pensioner in his efforts to establish pension entitlement. His file shows that the Commission took cognizance of the reports and opinions of the following specialists: Drs. DesBrisay, Emmons and Lawrence. The Chairman of the Commission, giving evidence to the Inquiry Commission stated that when there is doubt as to diagnosis, etiology or relationship of the condition to service, outside specialists' opinions are secured.

17. Q. Was this condition, specified by the Canadian Pension Commission, classified as "neurasthenia"?
- A. It was referred to as neurasthenia. Mr. Thom appeared before a Pension Tribunal sitting in Vancouver on April 27, 1933, and one of his claims was for neurasthenia. In a "Statement of Claim" completed and signed by him under date of September 21, 1937, he claimed for the same condition, neurasthenia.
18. Q. Was it arbitrarily related by representatives of the commission to a functional (presumptive) instead of an organic basis?
- A. No. The diagnosis of "neurasthenia" was first referred to by a Pension Medical Examiner in 1930 and confirmed by a Departmental Psychiatrist in 1933. The condition was subsequently referred to by specialists as "neurosis" and "psychoneurosis".
19. Q. Was the functional condition of neurasthenia related by the pension medical examiner (Dr. B. F. Keillor), Shaughnessy Hospital, Vancouver, B.C., to alleged (presumptive) economic conditions and as unrelated to the injuries sustained by John Thom in service?
- A. Yes.
20. Q. Did Doctor William Baillie, departmental psychiatric consultant, who has never seen John Thom personally, submit as "evidence" to the Canadian pension commission his opinion based solely on a statement alleged by Doctor B. F. Keillor to have been made to him by John Thom?
- A. Dr. Baillie accepted Mr. Thom's signed statement at examination dated November 27, 1930 and formulated his opinion of October 31, 1938 on this and perusal of the file four times.
21. Q. Did John Thom submit evidence to the Canadian Pension Commission denying the statements attributed to him by Doctor B. F. Keillor and submitting documentary evidence in proof they should have been expunged from the records as falsities?
- A. On August 10, 1943 Mr. Thom submitted a further signed statement, with documentary evidence, denying certain portions of the signed statement of November 27, 1930.
22. Q. Did the Canadian Pension Commission accept Doctor William Baillie's opinion, based on Doctor B. F. Keillor's challenged statements, to outlaw John Thom's pension claim as a total war disability?
- A. The Commission, having considered the evidence of Dr. Baillie as well as that of Drs. Emmons, Lawrence and DesBrisay, ruled on June 24, 1939 that neurasthenia is not attributable to service.
23. Q. Was John Thom described as in the "psychiatric" classification by departmental medical personnel (psychiatric services), and was this classification used for several years to effectively deny either John Thom or his legal representatives access to the departmental files to secure definite information as to the liaison between Doctor B. F. Keillor, pension medical examiner, and Doctor William Baillie, departmental consultant, regarding the outlawing of his pension claim?
- A. The diagnosis of Mr. Thom's condition comes within the neuro-psychiatric group. The regulations of the Department provide that an applicant whose case comes within the neuro-psychiatric group shall in no instance be permitted personally to examine his file, unless authority therefor has been granted by the Director General of Treatment Services in respect of a Head Office file, or the Departmental District Medical Officer in respect of a District file. The regulations further provide that the Deputy Minister or the District Administrator may at any time refuse to allow inspection, in whole or in part, of a file of a former member of the forces, or to impart information contained therein, even to a person or authority

23. (cont'd)

entitled under these regulations to be given the same, if it is considered that the inspection of such file, or the imparting of such information would be contrary to the public interest or that the former member of the forces or his dependents would be prejudiced thereby.

24. Q. Did three British Columbia medical specialists, including a brain specialist of Mayo Brothers standing namely Doctors R. Grant-Lawrence, H. A. DesBrisay and Dr. W. Frank Emmons, certify John Thom's condition of the total disability as directly related to his departmentally-recognized war-disability condition?
- A. These specialists certified Mr. Thom's condition to be related to his war disability condition.
25. Q. Is Dr. H. A. DesBrisay, one of the three mentioned specialists, a recognized specialised departmental consultant?
- A. Yes.
26. Q. Has John Thom been a total disability since the year 1927?
- A. Examination of the files does not prove that Mr. Thom had total disability since 1927.
27. Q. Was he subsequently compelled by economic circumstances to accept the war veterans allowance to supplement a 15 per cent disability pension award in lieu of a 100 per cent pension as of right?
- A. Mr. Thom was awarded War Veterans' Allowance with effect from June 1, 1938.
28. Q. Was the case of John V. Thom finally outlawed by an appeal court of the Canadian Pension Commission in the year 1939 after repeated court findings, and subsequent appeals of the legal representatives of the applicant refused to re-open the case?
- A. On October 23, 1939 an Appeal Board of the Commission disallowed Mr. Thom's appeal. On March 30, 1940 an Appeal Board of the Commission ruled that leave to entertain a fresh application is "not granted". On January 9, 1945 an Appeal Board of the Commission ruled that leave to entertain a fresh application be "granted". On October 10, 1944 Mr. Kirchner had written to the Chairman, Canadian Pension Commission, requesting the case be reopened, and the submission to the Appeal Board was made by a Pensions Advocate at Head Office of the Department.
29. Q. Was the case again re-opened by his subsequent legal adviser Walter H. Kirchner, M.C., D.C.M., pension adjustment officer, Canadian Combat Veterans Association Incorporated, on representations based upon proved irregularities, as cited?
- A. (See 28 above).
30. Q. Did the appeal court commissioners granting leave to re-open John Thom's case direct the attention of the Canadian Pension Commission to the medical evidence of the three British Columbia medical specialists, the "instructions" of the appeal court being, in part:-

"Canadian Pension Commission"
Appeal Board, January 9, 1945.

"The present appeal board has made a careful study of the complete details of the application, and has also had the advantage of the report prepared by members of the appeal board, who heard the applicant, as stated above. The board has also carefully noted the communication from the pension medical examiner, Vancouver, dated October 22, 1940.

30. (cont'd)

"While in some respects, this application is one which might be dealt with on a 'consequential' basis, the board has finally decided that a prima facie case for leave to re-open has been made out, particularly having regard to the evidence of Doctors Grant-Lawrence, H. A. DesBrisay and W. Frank Emmons, at the quorum hearing. The application for leave to re-open is therefore--granted."

A. Yes.

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ANSWERS TO CERTAIN CHARGES MADE
BY MR. KIRCHNER IN CASE OF
86684 JOHN THOM

1. Mr. Kirchner alleges that Dr. B. F. Keillor, Pension Medical Examiner at Vancouver, committed a felony. The charge seems to be based on the fact that Dr. Keillor recorded certain employment and business activities and said "there is a marked anxiety neurosis in this case largely economic."

There is no evidence whatsoever that the said examiner committed a felony in this case. A pension medical examiner is entitled and is expected to express his professional opinion in any case before him. His opinion may be based on a misunderstanding of the facts and may be wrong, but such error of judgment cannot be termed a "felony".

2. Mr. Kirchner alleges that Dr. C. M. Keillor, Chief Medical Adviser to the Canadian Pension Commission, utilized his office "to make the felony stick".

The Chief Medical Adviser would have acted very improperly had he suppressed or removed any material from the record.

3. Mr. Kirchner alleges that the Right Honourable Ian A. Mackenzie, Minister of Veterans Affairs, makes clear to the Pension Commissioners that they would lose their jobs if the Commissioners do not support the findings of Departmental medical men.

There is no evidence whatsoever in the file of Mr. Thom that the Minister took any such stand. The intention of the Pension Act is to establish a Commission to adjudicate upon pension claims which shall be absolutely free from any influence political or otherwise.

4. Mr. Kirchner alleges that the Canadian Pension Commission completely ignored the Appeal Board's instruction of January 9th, 1945, and that the decision "was artificially delayed one year and eight months".

There is some justification for complaint as to the delay but the record shows that the Commission was trying to obtain additional specialist's evidence which it thought necessary. There is nothing in the record to support the allegation that the Commission ignored the remarks of the Appeal Board.

APPENDIX "D"

LIST OF CASES CONCERNING WHICH MR. KIRCHNER MADE REPRESENTATIONS

- BARLOW, J.R. 103003
- BARTLETT, John 153862
- BARWIS, George C.J. R-204971
- # BELTZ, J.S., H.6417, Ex P.O.W.
- BENNETT, Ambrose C. 490518
- BOE, Robert M., K.65827
- BROCKBANK, James 1015425
- BURRAGE, J.A.H. Lieut.
- # CAMPBELL, Lowell T., R.160565
- CARTER, Jas. M. 435669
- CLUSE, Leonard John, K.68966, 1257602
- # CONNORTON, Frank W., V.52017
- COPPIN, Harry 11340
- # CROWHURST, A.B.W. 954
- CURZON, Arthur 69186
- DEL MONACO, Bernard 152910 (formerly Bernard BOWDEN)
- DENNETT, Percy 303637
- DICK, Joseph 703025
- DICK, Thomas 331758
- EWAN, A.L. K-21133
- FENNELL, Homer R. 2497773
- FORRESTER, Thomas K.602099
- GARTRELL, Edward 437597
- GARVEY, Edward E. 26079
- GIBSON, Geo. E. K.10772
- GRANT, Richard J., E-30275
- GRAY, J.J. 645451
- HANSON, Charles P. 3331
- HARVEY, S.H. 424891
- HASSING, A.T., M-29728
- HIGGINS, Alex., K.48328
- HILL, Constance I., W.11785
- HUMPHREYS, L.C. 252322
- HUTTON, Robert E., R.58324
- # JACOBSON, T.O., L.50094
- # KERR, Harry 2383221, 152508
- KING, John 116782
- LOCKHART, Geo. W., K.46231
- MacDONALD, Donald J., K.93617, 436738
- MacDONALD, Roy 8474
- MacDOUGALL, Lorne W., Lieut.
- # MAXWELL, E.J., R.51564
- McCLELLAN, Sholto, D.77732
- McCONNELL, S.H. 114609
- # MILLS, John H., K.50543
- PARKE, Wm. Henry Morgan 760702
- # PERFITT, Arthur K-75736
- PRITZKER, S. 3232730
- RANKIN, John D. 696031
- RIX, D. H.6235, Ex. P.O.W.
- RODGERS, Wm. A., H.6769
- ROSS, Alexander J., K.89832
- ROSS, R.H. 338884
- SAUVE, Dennis H. K.37496
- SHAYLER, Wm. A., H.6794
- SIBBALD, J.R. 524115
- STILL, George N. 422531
- SYKES, Fred 1012753
- THOM, John 86684
- VILLENEUVE, Arthur 26504
- # WALSH, Stanley L. V.86097
- WILCOX, Sydney 56055
- WOOD, F.W. V.31132

Cases marked thus # are those in respect of which evidence was taken at Vancouver.

APPENDIX "E"

APPENDIX "E"

LIST OF WITNESSES

- BAIRD, Dr. Murray - Director of Medicine, Vancouver District.
- BELTZ, J.S. H.6417 - Veteran.
- BOUCHER, Dr. H.H. - Part-time Consultant in Orthopaedics, Shaughnessy Hospital.
- CONNORTON, Frank W. V.52017 - Veteran.
- CROWHURST, A.B.W. 954 - Veteran.
- DANCEY, Dr. T.E. - Adviser in Psychiatry to Director General of Treatment Services and Director of Psychiatry, Montreal District.
- GUNN, Dr. Lynn - Superintendent of Shaughnessy Hospital.
- HUTTON, Dr. G.H. - Director of Psychiatry, Vancouver District.
- JACOBSON, T.O., L.50094 - Veteran.
- KEILLOR, Dr. C.M. - Commissioner, Canadian Pension Commission (formerly Chief Medical Adviser to Commission)
- KIRCHNER, Walter H., M.C., D.C.M. - Secretary, Canadian Combat Veterans Association Inc., Vancouver, B.C.
- LAING, Dr. J.W. - Pension Medical Examiner, Vancouver District.
- LEHMANN, Dr. P.O. - Neuro-surgeon, Vancouver District.
- ~~MACDONALD~~, Miss M.A.M. - Assistant Psychologist, Shaughnessy Hospital.
- MARGETTS, Dr. E.L. - Psychiatrist, Shaughnessy Hospital.
- MAXWELL, E.J., 51564 - Veteran.
- MCCLELLAN, Sholto D., 77732 - Veteran.
- MELVILLE, J.L., C.B.E., M.C., E.D. - Chairman, Canadian Pension Commission.
- PERFITT, Arthur K.75736 - Veteran
- RAPPELL, K.C. - Departmental Solicitor.
- ROBERTSON, Dr. Rocke - Director of Surgery, Vancouver District.
- THOM, John 86684 - Veteran.
- TURNBULL, Dr. Frank - Neurosurgeon, Part-time Consultant.
- WARNER, Dr. W.P., C.B.E. - Director-General of Treatment Services.

Ottawa, Ontario,
15 January, 1948.

TO: The Royal Commission
investigating complaints made by Walter H. Kirchner, Esq., M.C.,
D.C.M., Secretary, Canadian Combat Veterans Association Inc.,
Vancouver, B.C., regarding pension and treatment services of the
Department of Veterans Affairs

On the occasion of my appearance before the Royal Commission investigating the charges of Walter H. Kirchner regarding pensions and treatment affairs, the Chairman, the Honorable James J. McCann, M.P., asked me to submit a short outline of the organization and work of the Treatment Services, with particular reference to these aspects in Vancouver where the Kirchner charges were made. The following is respectfully submitted.

Since the Commission is personally inspecting the facilities at Shaughnessy Hospital, Vancouver, it will obviously be unnecessary to describe the excellent facilities available for modern treatment in that institution. Shaughnessy Hospital is a 1,100 bed hospital, very adequately equipped for diagnosis and treatment by modern methods. The auxiliary services such as the operating theatres, the diagnostic laboratory, the x-ray department, physical medicine including physiotherapy, occupational therapy and remedial physical training, are adequate.

The few cases in which Mr. Kirchner complains about improper treatment have largely to do with cases of low back pain and the care rendered Hong Kong Prisoners-of-War. A percentage of the cases of low back pain were diagnosed "protruded intervertebral disc" and operative procedures undertaken which resulted, in some cases cited, in indifferent therapeutic results. The staff chiefly concerned with the diagnosis and treatment of this difficult type of case are neurologists, psychiatrists and their fact-finding helpers, psychologists. The staff which had to do with the handling of the Hong Kong Prisoners-of-War were the general medical and surgical staffs and the neuro-psychiatric staff.

The following is a brief summary of the qualifications of the personnel employed at Shaughnessy Hospital in the above specialties:

Neurosurgery

Dr. Frank Turnbull, head of the Department of Neurosurgery, is one of Canada's outstanding neurosurgeons who received long training under Dr. Kenneth MacKenzie, Professor of Neurosurgery at the University of Toronto. I feel quite certain that if the medical men of British Columbia were asked who the most competent and outstanding neurosurgeon in their province was, Dr. Turnbull would be named by an extremely large percent. Dr. Turnbull is in charge of and responsible for the operations that took place on these intervertebral discs. He is assisted by a young neurosurgeon, Dr. Lehman, who has also had extensive training under Dr. Penfield in Montreal and who works under the direction of Dr. Turnbull. Both these men are very competent neurosurgeons.

Neurology and Psychiatry

The neuropsychiatric work done at Shaughnessy is under the direction of Dr. Hutton who is a specialist certified in psychiatry by the Royal College of Physicians and Surgeons of Canada, and, in my opinion, a sound psychiatrist.

Neurology is under the direction of Dr. Gould who is also a certified specialist and who did an excellent job in the R.C.A.M.C. and was trained in Queen's Square.

Dr. Gundry, also a certified specialist in psychiatry, is another member of the staff, and Dr. Margetts, a younger man who is studying for his certification by the Royal College.

I believe that these neurologists and psychiatrists are as well trained and competent as any practising in Vancouver.

By the above, I think one can conclude that neurosurgeons, neurologists and psychiatrists who had to do with the diagnosis and treatment of these cases of protruded intervertebral discs are unquestionably competent and represent a highly qualified group of specialists.

It is understood by all who have had to deal with cases of low back pain that the diagnosis is difficult and no matter what therapeutics are employed, the results are not extremely satisfactory. One expects failures whether conservative or radical methods of treatment are employed.

The handling of certain Hong Kong Prisoners-of-War is also questioned by Mr. Kirchner. These would be handled by the neuropsychiatrists referred to above and by the general medical and surgical staff of Shaughnessy.

Surgical Service

The Surgical Service of Shaughnessy Hospital is under the direction of Dr. Locke Robertson, a fellow of the Royal College of Surgeons and one of the ablest surgeons in Vancouver. He is assisted by the Chief Consultant, Dr. Roy Huggard, also a fellow of the Royal College and an extremely able surgeon, chiefly interested in gastro-intestinal surgery.

Medical Service

The Director of Medicine for Shaughnessy Hospital is Dr. Murray Baird, a well qualified, sound internist who is a member of the Royal College of Physicians. He is assisted by Dr. Bagnall, a fellow of the Royal College of Physicians of Canada, and Dr. Simpson, a certified specialist in internal medicine. These three internists are, in my opinion, amongst the most competent internists in Vancouver.

Medicine not being an exact science, one must and does expect failures in diagnosis and therapy. From March 31, 1945, until October 31, 1947, this Department gave over three million outpatient treatments, and had on its strength during this period an average of 5,000 outpatients constantly. In addition to this, 280,285 patients were hospitalized by the Department. During the same period we had an average daily inpatient population of 11,299, 8,509 of whom were in our own institutions. It is impossible for any medical service of this magnitude to not have certain diagnostic and therapeutic failures. It is my opinion that the number of these occurring while being treated by this Department is a minimum for any medical service anywhere.

The ability to obtain the services of such highly qualified doctors has been brought about through the Government making it possible for us to employ these men on the half day fee basis. By this method we employ the leading consultants in the non-University town such as Vancouver, and where our hospital is situated in a University centre, we employ teachers in the Medical School of the University. These highly qualified doctors are not full time general duty civil servant doctors, but are stimulated to be of the high calibre which they are through their work as consultants or teaching in the University. It should be emphasized that these men are actually responsible for all the medicine, surgery, etc. which goes on in hospitals such as Shaughnessy, that they actually do the work themselves. They are assisted by internes and residents, young doctors usually with one to five years' postgraduate work who are specializing and writing their fellowship examinations for the Royal College. These young internes and residents are a tremendous asset in keeping medical practice from stagnating.

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They bring energy and new ideas to the hospital. They are purely temporary employees, not permanent employees. It is considered that by the system outlined in this paragraph that medical treatment can be given which is of a very high order.

In conclusion, may I state that in my opinion the physical facilities at Shaughnessy Hospital are very adequate for good treatment. May I also emphatically state that the staff are of a very high professional order and that veterans receiving treatment in this institution receive treatment of a character that cannot be bettered in the city of Vancouver.

W. P. Warner, M.B.
Director General of Treatment Services.