Tempers were rising, in Cumberland and elsewhere, over the killing of Goodwin. “It’s a wonder they didn’t take that Campbell out and tar and feather him,” Jean Letcher, then 15 years old, said years later.

Friends of Goodwin began to challenge the self-defence version of the shooting, saying that the path of the bullet showed that his head must have been turned away and thus he could not have been sighting his rifle at Campbell as was claimed. A mass meeting of coal miners decided not to work on Friday 2 August and to attend Goodwin’s funeral at Cumberland Cemetery. It was the first work stoppage since the early weeks of the Big Strike in 1912.

In Vancouver, union leader Jack Kavanagh said: “What we want to know is whether it was self-defence or murder.” At a special meeting of the Vancouver Trades and Labour Council, secretary Victor Midgely read from a telegraphic despatch that said Goodwin threw up his hands when ordered and advanced in that manner towards Dan Campbell until he was five yards away when the despatch said, he dropped his hands and pointed his rifle at the special constable who shot and killed him. Midgely asked where Goodwin was carrying his rifle all the time he held his hands in the air. A call for a 24-hour general strike in Vancouver was sent out by the Metal Trades Council and the Vancouver Trades and Labour Council, the first general strike in Canada. The day before the funeral, the federal government issued a proclamation (advertised several days later) offering a conditional amnesty from punishment for deserters provided they reported for duty by
Huge funeral procession for Ginger Goodwin lines up on Dunsmuir Avenue in Cumberland on 2 August 1918. The coffin was borne from the home of John and Margaret Clark on nearby Penrith Avenue where Goodwin often boarded. He was buried in Cumberland Cemetery several kilometres away. Cumberland Museum and Archives, C.110-001.

24 August. Had he been alive, however, Goodwin would not have taken advantage of the amnesty because of the condition to report for duty.¹

Work ceased in the Cumberland coal mines and everyone poured out for the funeral, a personal tribute not only to Goodwin and the respect in which he was held but also an expression of outrage at what his friends considered to have been his murder. His body had been placed in a coffin and taken the day before the funeral from Thomas Banks' Undertaking Parlours to the home of John and Margaret Clark at 2725 Penrith Avenue where Goodwin had spent so much of his life in Cumberland. This was the home, too, of Mary Clark, then 22 years old. She and Ginger were friends, not more than that, and they went out together. "They were real good pals," Mary's younger sister, Jean, then 15 years old, recalled years later. "We always thought

¹Author's interview with Jean (Clark) Letcher, 16 March 1988; Victoria Daily Times, 1, 2 August 1918; Victoria Daily Colonist, 2 August 1918; Vancouver Province, 1 August 1918; Vancouver Sun, 31 July, 2 August 1918; B.C. Federationist, 2 August 1918; Nanaimo Free Press, 5 August 1918.
there would be love between them but there was not, they were all just friendly, they were great friends."

The traditional open coffin drew many friends to the house for the visitation. Next day, the funeral itself was massive: The procession to the cemetery, several kilometres from Cumberland, stretched for more than a kilometre. Friends also came from beyond Cumberland. The coffin was hoisted by half a dozen pallbearers to their shoulders and carried slowly up Penrith Avenue and over to Dunsmuir Avenue. The gathering crowd paused at the intersection of Third Street to form up the procession, a brass band in the lead, followed by pallbearers with the coffin. At the edge of town, the coffin was placed in a hearse.

The service was conducted on the upper slope of the cemetery by the Socialist Party of Canada, Cumberland Local 70. The speakers were Joe Naylor, old friend, union and Socialist comrade, who was still unable to get work in the mines since the Big Strike; Wallis Lefeaux, Vancouver lawyer active in the defence of trade unionists and Socialists, and later CCF member of the BC legislature for Vancouver Centre from 1941 to 1945; and William A. Pritchard, Socialist, orator and executive member of the Vancouver Trades and Labour Council. Pritchard, whose father was fired from the Dunsmuir coal mines in 1903 for organizing a union in Ladysmith, was the final speaker. He read from a poem, which began:

Not that we fear to die,
For why should we
Who face a living death
From day to day
Fear what we know eternal rest to be,
A sudden end, rather than a slow decay.²

In Vancouver, the notice for the 24-hour general strike was brief:

In Memoriam
Special Notice by
Trades and Labor and Metal
Trades Councils
All members of Unions affiliated
with the above councils will cease work
for twenty-four hours commencing 12 o’clock,
Friday, August 2nd, 1918, as a protest
against the shooting of Brother A. Goodwin.

²Jean Letcher interview; William A. Pritchard manuscript, University of BC Library, Special Collections and University Archives Division; Author’s interview with Karl Coe, 1987; Masters, “The Shooting of Ginger Goodwin”; B.C. Federationist, 9 August 1918.
Chapter Seven

Promptly at noon, conductors and motormen took the city streetcars back to the barns. Shipyard workers, longshoremen, garment workers and electrical workers stopped work. Others stayed at work: Printers, postmen, teamsters, telephone workers. At least 5,600 workers went out but almost 10,000 union members did not. The strike, called amid a turbulent time for labour relations, in BC and elsewhere, aroused the daily press to indignation and drove some returned soldiers into a riotous frenzy.

Sgt. A.E. Lees, secretary of the Great War Veterans Association in BC, with whom Goodwin had spoken only six months earlier seeking to help returned soldiers, was practically beside himself. "Whether he was shot in the front or the back, he got his just and due deserts. He was an outcast, an outlaw, and not deserving of sympathy," he declared. As to the attacks on labour leaders, Sgt. Lees continued: "The treatment given these labour men this afternoon (Aug. 2) will be nothing compared to what we will do if they try to turn this country into a second Russia."

The B.C. Veterans Weekly commented: "There are no two ways about this strike. It is murderous disloyalty." Its editorial concluded: "There are many followers of the Goodwin type in Vancouver, but they are either going to stop this sort of thing hereafter or Vancouver is going to be too hot a place for them to live in."

The daily newspapers howled. The Vancouver Sun headlined its editorial "German or British — Which?" and commented: "Every man who lays off, in obedience to the infamous recommendation of extremists without honor or conscience, will stain himself with something that can hardly be distinguished from deliberate treason." Added the Vancouver Province: "Hundreds of union labor men from British Columbia have died bravely fighting for the Empire and the cause of right in France and Flanders. For none of them have the organized workers been asked to pay such honor as they have been called upon to offer to the man who was killed with a rifle in his hand resisting the law of this country."

In the evening of 2 August, returned soldiers stormed the Vancouver Labour Temple, assaulted labour council secretary Victor Midgely, and forced him to kiss the Union Jack. Pioneer fighter for women’s rights, Helena Gutteridge, later elected the first woman member of Vancouver city council, was there. She said 300 veterans broke down the labour temple door, shattered windows and threw papers and records everywhere. The veterans forced Midgely out of a second-floor window onto a coping. He managed to climb back inside and would have been pushed out again but for the intervention of stenographer Frances Foxcroft.

The next day, veterans attacked the Longshoremen’s Hall. They demanded that union leaders Ernie Winch (later CCF member of the BC legislature for Burnaby for more than 30 years whose son, Harold, led the party
in the house), Jack Kavanagh, George Thomas, William Pritchard, W.H. Cottrell, Joe Naylor, and Midgely all leave BC for the rest of World War I. The union leaders, however, said they had the support of their members and they promptly put it to the test. Delegates to the labour council (who had earlier voted 117 to one in favour of the 24-hour general strike) re-signed en masse. The major unions then re-elected the same delegates and, with two or three exceptions, so did the smaller unions. It was a clear vote of confidence.3

There were contrasting obituaries for Goodwin. In Trail, the News commented: “Goodwin deserves no sympathy nor do those who think as he does. Canada is at war and has called its young men to the colors. He was one of them, and his persistent evasion of his duty brought the natural consequence. Thousands have gone willingly and gladly and many have paid the price. Albert Goodwin paid it, not in the line of duty, but because he would not conform to what we are all subject to and threatened an officer. He was a bright man and could have made a name for himself.” The Vancouver Sun said: “He is very poor material for martyrdom. His name does not belong in the calendar of saints. His conduct was an evil example, which brave men or patriotic men cannot condone. Let his friends grieve, if they will, but let all other good citizens cease to mention him henceforth.”

Goodwin’s friends saw matters differently. Pritchard said Goodwin’s death was a loss to the labour movement. Pritchard cited a compliment paid to Goodwin by the mainstream daily Vancouver World on his inoffensive language as proof of Goodwin’s fine character. “He was well posted on the working class movement, an orator of no mean ability, and a gentleman in the best sense of the word; kindly-hearted, earnest and sincere in his efforts to bring about a change in the system which he knew so well was the cause of wars, and all the ills from which society suffers,” said Pritchard.4

Back on Vancouver Island, the police search for draft dodgers did not let up. The press reported that the young men for whom previous searches yielded no result gave themselves up. But according to later accounts, Boothman, Taylor, and Randall were spirited away from their mountain hideout by friends. Dominion Police Inspector William John Devitt came back and arrested Joe Naylor and David Aitken in mid-August and charged them with aiding and abetting deserters (including Goodwin) by earlier tak-

3Labour/Le Travail, 23 (Spring 1989); B.C. Veterans Weekly, Vancouver, 8 August 1918; Vancouver Province, 2 August 1918, 2 August 1978; Vancouver Sun, 2, 3, 30 August 1918; Victoria Daily Times, 2 August 1918; Irene Howard, The Struggle for Social Justice in British Columbia: Helena Gutteridge, the Unknown Reformer (Vancouver, 1992); Phillips, No Power Greater.

4Vancouver World, 20 August 1917; Trail News, 9 August 1918; Vancouver Sun 2 August 1918; B.C. Federationist, 2 August 1918.
ing groceries to them. Dominion Police Constable Alfred Stafford and Provincial Police Constable Robert Rushford arrested two military evaders, identified only as J. Ford and an Italian, on 23 August and took them to the Courtenay lock-up. Rushford was again assisting Devitt on 29 August looking for military deserters.5

Meanwhile, the manslaughter case against Daniel Campbell was being prepared by the Provincial Police for the Preliminary Investigation or hearing, comparable to today's Preliminary Inquiry in Provincial Court. The hearing convened on 7 August at the Victoria Courthouse before two Justices of the Peace, William Northcott and Dr. Lewis Hall. It was notable in three ways:

1. Several witnesses enhanced their evidence from the inquest, the effect being to buttress the self-defence argument.
2. Defence counsel William Moresby was shocked when six witnesses for the prosecution arrived unexpectedly from Cumberland (in the days before the Crown had to make full disclosure of its case in advance). These witnesses testified that on three occasions, Campbell said he would "get" the deserters "dead or alive." One of the witnesses quoted Campbell as using the word "shot."
3. The Crown conducted its case on two premises: That Campbell was operating on a "dead or alive" basis (supported by the testimony of the six surprise witnesses); and that no words were exchanged before Campbell shot Goodwin, the suggestion being that Campbell did not offer Goodwin the opportunity to surrender. Yet, curiously, both Inspector Devitt and Lance Corporal George Henry Roe of the Dominion Police knew differently, did not say so in court, and allowed the prosecutor to proceed on an erroneous premise. There may be a legal explanation for this, however. In Chapter 9, criminal lawyer Adrian Brooks explains that the rules of court should prevent Devitt and Roe from repeating, as hearsay evidence, exculpatory statements by an accused.

The purpose of the Preliminary Investigation was to decide if there was enough evidence to warrant a trial. This was unlike the inquest which had a limited fact-finding focus under the BC Coroners Act. The duty of the inquest jury was to view the body, hear the evidence and give a verdict, deciding who the dead person was and how, when, and where he or she came to die. Finding fault was up to the criminal courts which must enquire not only into the facts of an event but also whether any criminal intent can be found. Even allowing for the difference in functions, however, the accretion in testimony between the two hearings was considerable.

The case against Daniel Campbell was called at the Victoria Courthouse in Bastion Square (now home to the Maritime Museum of BC) before the two Justices of the Peace, Northcott and Hall. They were lay persons who regularly decided whether there was sufficient evidence to commit accused persons to stand trial. Northcott was the purchasing agent, assessor, and building inspector for the city of Victoria. Hall was a dentist and an active Liberal who was mayor of Victoria in 1908 and 1909. The prosecutor was William Carter. Moresby continued to represent Campbell.

Dr. Millard repeated his post mortem evidence from the inquest. Again, he said there were two wounds on the left neck, one big enough to admit two fingers, and a small punctured flesh wound. Two portions of one bullet that practically fitted together were found in the right shoulder. Again, the existence of two wounds to the left neck when only one bullet was fired was not pursued in questioning. The only explanation, if his evidence is accepted, is that the bullet broke into two pieces after hitting the wrist and before reaching the neck. Millard had said he had no positive indication that the left wrist wound was caused by a gunshot. Now, when asked, “And would you say the wound on the arm and neck were caused by the same bullet?” Millard replied: “In my opinion yes.” But how did he account for powder marks, which he found on the neck, not being on the wrist? “I cannot say, the clothing was removed before I saw it, and it might be on account of the clothing being removed, the clothing might have rubbed it off.” (Years later, the undertaker’s son, Harold Banks, who viewed Goodwin's body, said there were powder marks on the wrist). At the inquest, Millard said the wrist wound extended “nearly to the bone.” Now, he said the wound extended “to the bone.” Millard repeated earlier testimony that in his opinion Goodwin’s left arm would have had to be on a level with the wound on his neck and the location of the bullet. Millard said he handled two or three gunshot cases a year and, asked if the bullet which killed Goodwin was soft-nosed or dum-dum, replied that it was “a soft-nosed bullet, not an explosive bullet,” an ordinary hunting bullet. Again, Moresby zeroed in on one bullet causing the wrist and neck wounds: “There is not the slightest doubt in your mind that the wound on the arm, the radius, and the neck were both caused at the same time?” Millard replied: “The same time.”

Inspector Devitt repeated his testimony about how the police reached Alone Mountain, with a minor date confusion. After hearing a gunshot and rushing with Lance Corporal Roe to the scene, he found Campbell standing thirteen feet from Goodwin who was facedown, dead, and clutching a .22-calibre automatic rifle. Devitt quoted Campbell as saying: “I surrender to you Inspector, I had to do it to save my life.” Now Devitt added to his earlier testimony: He said that Goodwin’s right index finger was extended. “And that would be for the purpose of pulling the trigger?” asked defence
counsel William Moresby. "I should think so, the muscles were all flexed," replied Devitt. (Earlier, Millard said the hands of a dead person who was killed instantly would be flexed, without relaxation, and would keep the same position after death). Justice of the Peace Northcott asked: "According to the way you found the deceased he was in a position to shoot the way he had his hands out?" Replied Devitt: "That is certainly my opinion."

Devitt also said Goodwin's neck wound was caused by "a ricocheting, it was not a straight wound," adding to his inquest testimony.

Devitt was asked: "Would a bullet fired at that distance at a man's wrist ricochet like that?"

"Oh yes."

"And the striking of the bone at that distance from that rifle would deflect the bullet?"

"I think so."

Devitt's ricochet theory was consistent with his inquest testimony that one bullet caused the wrist and neck wounds.

At the inquest, Devitt was asked about Goodwin: "You did not know the man at that time?" He replied: "No, I did not know the man." Now he was asked: "Did you know the deceased before that?" Devitt answered: "No, I had never met him." (It may have been true that Devitt had never met Goodwin, or even had known him in a formal sense, but he could hardly have failed to have known of him. When Devitt was police chief of Rossland, Goodwin was a regular visitor from nearby Trail, his arrivals at the Allan Hotel were routinely reported in the social column of the Daily Miner. Any police chief of Rossland, which supplied nearby Trail's smelter with its raw materials, would surely have known, at least by name and reputation, one of the leading trade unionists of the area).

Carter, for the prosecution, emphasized to Northcott and Hall that, evidently, no words had passed between Campbell and Goodwin before the fatal shot. He asked Devitt: "Did Campbell at any time speak to you or anyone else in your hearing about how the shooting occurred or in what position his rifle was in?"

"Not at the time."

"At any time?"

"Yes, since."

Devitt said that later, in Victoria, Campbell "just demonstrated that the man came close to him and covered him with a rifle and he pulled his."

"Tell us what he told you there?"

"That was all he told us, it was more of a jest [sic: gesture?] than anything."

"What did he say?"
“He said he pulled his rifle, he said the deceased raised his arm to his shoulder, not the accused.”

And yet, both Devitt and Roe, if their own notes are to be believed, knew that more than this was said. Their notes quoted Campbell as calling on Goodwin to surrender. Yet they allowed Carter to conduct the prosecution on the premise that nothing was said before the fatal shooting. Devitt’s notes say this, immediately after the shooting: “Constable Campbell said I had to do this to save my life, I asked this man to surrender and give me his rifle and he covered me with his rifle as though to shoot. In self defence I had to shoot first.” Roe said in his notes: “He (Campbell) said take me in charge Inspector Devitt — but I could not help it. I told him to surrender but he covered me and to save my own life I had to pull, ...” (Emphasis added). Neither Devitt nor Roe testified at the inquest that Campbell told Goodwin to surrender before shooting him.

But the ‘I surrender’ words attributed to Campbell were hardly the notebook secret of Devitt and Roe. The statement had been made publicly before the Preliminary Investigation, raising a question of how well informed the prosecution was about the case. The Victoria Daily Colonist reported on 31 July — the morning of the inquest — that Constable Rushford quoted Campbell as telling Goodwin before the shot was fired: “Stick up your hands and come forward.” The newspaper repeated this on 9 August when it reported that Northcott and Hall had committed Campbell to stand trial. “According to the original story, although this was not submitted as evidence at the investigation, Campbell ordered Goodwin to surrender. Goodwin held up his hands and advanced towards Campbell, then suddenly clutched his rifle and raised it to his shoulder. Campbell shot first.” (Emphasis added).

The Comox Argus reported on 1 August that Goodwin “was ordered to throw up his hands, Campbell at the same time telling (him) he was under arrest.” (Emphasis added). While Devitt and Roe could not themselves testify as to what Campbell told them that he said to Goodwin, because that would be inadmissible hearsay evidence from a third party — it could only come from Campbell in court — that does not explain why the prosecution founded an important part of its case against Campbell on the premise that no words were exchanged before the shooting. This remains an unanswered and, now, unanswerable question.

Although Devitt identified Campbell’s rifle in court, when he was asked how Campbell was armed he said: “I cannot say what he was armed with, the regulation arm for Dominion Police is generally a .45 or .55 pistol.” At the inquest, asked what Campbell was armed with, he said “I would not swear to it but I believe he carried a .32 Smith and Wesson special, something like that.” He was then presented with and identified Campbell’s rifle.
Devitt also added this testimony, over the inquest: He had on file “certain telegrams” (which were never produced in court or elsewhere) “which stated that the unfortunate man, the deceased, had stated that he would shoot any man that would attempt to draft him into the army.” Immediately before saying that, however, he testified: “I had no information that we should be more careful about Goodwin than any other one, a good deal of talk had been going around.” (Years later, Cumberland miner Ben Horbury said he was present when Goodwin and Boothman told his father that, if cornered by police, they would not shoot.) But was Campbell aware of Goodwin’s alleged dangerousness, Devitt was asked. “I don’t know,” he replied.

Devitt testified he received information when he arrived in Cumberland where the deserters might be located. He was then asked, for the first time: Did the information disclose that these men were armed? “Yes.” Devitt said an earlier raid on a cabin “that was supposed to be occupied by Taylor and men of his party” resulted in “a large number of rifles and ammunition” being taken and he said Campbell knew this. Devitt also said “heavy shotguns” were found in the cabin raid. (But in what sounded like the same raid, Constable Rushford testified later in August at the Preliminary Investigation of Joe Naylor, on the charge of aiding and abetting deserters, that a Dominion Police-Provincial Police search in which Taylor, the man in the black mask, got away, the police only found “A shotgun and some ammunition” in a shack). Devitt also said, for the first time, that a red handkerchief with holes in it, suggestive of a mask, was found in a lean-to only 200 yards from where the shooting took place where there was evidence of recent cooking. Devitt said he had information about the incident involving Rushford and a man with a mask named Taylor, that Rushford had fired at him, and he believed Campbell knew this.

The picture now being presented became clear: The police were searching for deserters who were armed and dangerous, willing to shoot, in an area where a number of rifles, shotguns and ammunition had been found, that Goodwin had said he would not be taken alive and had his trigger finger ready to fire his rifle. All this bolstered Campbell’s claim of self-defence, of course.

George Henry Roe had the same lapse of memory as Devitt: Roe’s notes, in Devitt’s notebook, quoted Campbell as saying, immediately after the shooting, “I told him to surrender but he covered me and to save my own life I had to pull ....” But Roe testified that Campbell only said: “I am very sorry, Inspector, but I had to do this in self defence, it was my life against his life.” There was no mention of Campbell telling Goodwin to surrender. Roe, who had listened to Devitt’s testimony (something that would not be allowed today in a criminal trial), said again that Goodwin’s rifle was loaded.
His attention was directed to Goodwin's hands and the right index finger that Devitt thought was in a shooting position. Roe said Goodwin's hands "had about closed but had not stiffened." He was asked, "Where was the index finger of his right hand?" Now Roe, who said he took the rifle out of Goodwin's hands, became uncertain: "I could not say, I won't say because I cannot."

Devitt testified (and Roe confirmed) that he ordered Roe to make Goodwin's rifle secure. Devitt said he issued this order this because of information that there were other deserters in the area and "one less rifle in the neighbourhood I thought would be better." Yet Roe testified at the inquest that he reloaded the rifle with the only two bullets (of 10) that he could find on the moss-laden ground after emptying the rifle. Roe said he turned the rifle over to Devitt.

Neither Devitt nor Roe testified at the inquest about finding a rifle under a big rock about two hours before Goodwin was shot which not only did they fail to secure but did not confiscate either although both men recorded the event in their notebooks. Devitt wrote that it was a "take down" rifle, which is often a .22 rifle that separates into two parts. But Devitt did tell the Preliminary Investigation about finding this rifle. The policemen decided to cache the weapon "in another place," which does not indicate any concern at that moment about a rifle being in the area.

Albert Stephenson, the Nanaimo-based area chief of the Provincial Police, said when he reached the scene three days after the shooting he found Goodwin's right index finger extended. He searched the corpse and found a box of eight .22-calibre shells — the same number of shells that Roe could not account for in his testimony, saying that they were ejected "quite a distance" while he unloaded Goodwin's rifle. Roe, however, did not tell the Preliminary Investigation that he reloaded the .22-calibre rifle with the two bullets he found, as he did at the inquest.

Stephenson said the bullets from Campbell's rifle "are the bullets used by sportsmen."

He testified that he knew Goodwin (presumably from 1913 when Stephenson was a constable and stationed in Cumberland during the Big Strike). Was Goodwin's reputation offensive? "No, he is inclined to be socialistic." He was asked again, "Offensive or otherwise?" Stephenson replied, "No."

Questioned by Moresby, Stephenson said he was told that Campbell was standing seven feet from bloodstains on the trail at the time of the shooting. He also said Goodwin was not authorized to carry a gun.

The case then took a sharp turn for the worse, for Campbell. To the obvious shock of his lawyer, six witnesses — who had not been called at the inquest — testified that on three occasions in the weeks before Goodwin was
killed Campbell said he would “get” the deserters, “dead or alive,” that they would never get away, and one witness quoted Campbell as using the word “shot” rather than “get.”

Moresby, spluttering, demanded to know how the witnesses came to be at the Preliminary Investigation, how did the police know about their stories? Camille Decoeur said he told Joe Naylor what Campbell had said, and Constable Rushford told him to go to the Preliminary Investigation. Decoeur was followed on the witness stand by miners Peter McNiven, Rasie Giovanni, Alexandros Merillo, Carlos Cavallero and Peter Ioris.

Cavallero quoted Campbell as saying that Rushford saw one of the deserters in a boat and would not shoot because he was his friend. Campbell said, “If it was me I would get him.” Campbell also said: “We are going to get him, dead or alive.” Cavallero was the fifth of the six witnesses giving the similar stories, by which time Moresby was moved to comment: “That makes the case very strong, does it not?” Cavallero replied: “I don’t know if it makes it strong.” A few questions later, Moresby sounded frantic: “How did you come to be here? You would not be here unless someone knew what you were going to say? Someone must have sent for you? Who is the somebody that got you here today?” Answered Cavallero: “I know they got me here all right.”

Although not called as a witness, Rushford said in his monthly report that on 5 August he received a telegram from Inspector Francis Murray at Provincial Police headquarters in Victoria to notify six witnesses to go to the Preliminary Investigation in Victoria. Inspector Murray, interestingly, was the Sergeant Murray of the Provincial Police whose investigation in 1905 led to the dismissal of Campbell from the force for shaking down two women. Rushford accompanied three of the six witnesses to Victoria from Cumberland.

Summing up for the prosecution, Carter emphasized that, evidently, no words had passed between Campbell and Goodwin before the fatal shot was fired. He attempted to show that Campbell was working on a “dead or alive” policy and had not made a reasonable effort to disarm and capture Goodwin.

“I don’t deny that Goodwin was an evader of the law,” said Carter. “But not every man who evades the law gets killed. Not every man is entitled to be killed. In cases where death is involved it is imperative that there should be a thorough investigation. You would imagine when Campbell encountered Goodwin there would have been some conversation. That is just what I cannot explain. It would be fairer to the accused and fairer to the country to have this matter settled by trial before a jury.”

Moresby said the legality or justice of conscription was not the issue. Desertion or evasion of the Military Service Act was a serious offence. It was a
fair inference from police testimony about finding masks and heavy firearms that Goodwin and the others were prepared to resist arrest.

"Suppose Goodwin fired the first shot and Campbell were killed," said Moresby. "What would the world say? That Campbell was a fool not to shoot sooner. There was no time for speculation. It was a time for quick action. Why put this man to the expense of a trial when it is a foregone conclusion that no reasonable, fair-minded jury would convict him? As to the use of a soft-nosed bullet, Campbell would have been justified in using a bomb in self-defence."

While Moresby inferred that friends of Goodwin caused the appearance of some Crown witnesses, Carter said they were summoned in the regular manner through the Attorney General's department.

Throughout the hearing, Campbell retained his composure, showing no signs of emotion. The courtroom was filled with spectators. There was a sprinkling of Victoria labour men and Socialists, several people from Cumberland, and soldiers and returned veterans. Vancouver lawyers Edward Bird and Wallis Lefeaux kept a watching brief for the Socialist Party of Canada.

After Carter closed the case for the prosecution, Moresby immediately asked that the charge to be dismissed because there was no case for the defence to meet. Northcott and Hall decided to adjourn the hearing to the next day, 8 August, to give their decision.

When court reconvened, Northcott gave the decision: "We have given the matter our serious consideration and as there is some doubt arising in the matter we will commit the accused for trial by the higher court. I am sorry for Mr. Campbell, we will commit him to the higher court."

Said Moresby: "I take it that you think there is a case to meet having heard the evidence for the prosecution and, on my motion to dismiss the case, you refuse my motion?"

"Yes," replied Northcott and Hall.

Northcott asked Campbell if he wished to say anything or call any witnesses.

"At the higher court, yes," replied Campbell.

Without attribution, the Victoria Daily Colonist reported next day that "several witnesses will be produced to show Campbell shot in self-defence and that, therefore, there is no substantiation of the manslaughter charge."

Campbell was to be tried at the fall Assize in Nanaimo, the city closest to the alleged crime where BC Supreme Court held regular sittings. Nanaimo was also a coal-mining city. Goodwin and many of his friends were coal miners, and his death caused considerable controversy and hostility. That may be why the trial was shifted to Victoria five days before the Assize in Victoria began its fall sitting. The affidavits in support of the defence request for a change of venue to Victoria cannot be found but such changes are usually given where the court accepts that there would be prejudice against the accused person. Justice Aulay Morrison of BC Supreme Court changed the venue on the application of Moresby and after reading affidavits from: John S. Bannerman, customs collector in Cumberland; Thomas Graham, general superintendent of Canadian Collieries (Dunsmuir) Ltd. in Cumberland; Charles Graham, district superintendent in Cumberland for Canadian Collieries; Donald Robert MacDonald, traffic manager in Cumberland for Canadian Collieries, and mayor of Cumberland; Anson Jones Burnside, about whom nothing can be learned; Frank J. Dalby, storekeeper in Cumberland for Canadian Collieries, who was foreman of the Goodwin inquest jury; Thomas Duer McLean, a Cumberland jeweller; Neil McFadyen, stable foreman in Cumberland for Canadian Collieries, a school trustee, and a juror at Goodwin’s inquest; and Charles Edward Hildreth, manager of the B.C. Veterans Weekly, official organ of the Great War Veterans Association of BC. Morrison also heard from A.M. Johnson, deputy Attorney-General, who did not appear to oppose the change of venue. 7

Although the Provincial Police and two Justices of the Peace believed there was a prima-facie case of manslaughter against Campbell, before he could stand trial the indictment had to be presented to and witnesses heard, in private, by a grand jury. The duty of the grand jury was not to determine guilt or innocence but solely whether or not there was sufficient prima-facie evidence to warrant a trial. (Grand juries also inspected and reported on conditions in government institutions, such as hospitals and jails).

The grand jury, comprised of thirteen jurors, was part of the English judicial system brought to Canada and the United States. It was intended to protect citizens from the power of the authorities by having a review by citizens before someone could be tried in court. Grand jurors were addressed in open court on the law that applied to the case by the presiding judge of the assize. Then they retired to hear, in private, the witnesses called by the

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7 BC Archives, GR 1566, Reel B-7066, Rex v. Daniel Campbell, Change of venue; City directory, Cumberland; Voters Lists, Comox constituency; Nanaimo Free Press, 27 September 1918.

Rex v. Joe Naylor; Victoria Daily Colonist, 8, 9 August 1918; Mark Leier, “Plots, Shots and Liberal Thoughts: Conspiracy Theory and the Death of Ginger Goodwin,” Labour/Le Travail, 39 (Spring 1997).
No record was made of the testimony given. The accused was not present. A Bill of Indictment listed the name of every witness intended to be examined and the grand jury foreman endorsed each witness heard by initialling his name. After hearing the prosecution's witnesses, the grand jury returned either a "True Bill," meaning there was sufficient evidence to warrant the trial in public by a twelve-member petit or trial jury, or "No Bill," meaning the case was dismissed for lack of evidence. Majority ruled (in contrast with criminal trial juries, which require unanimity), meaning as few as seven of the thirteen grand jurors could find a True Bill — or, No Bill.\(^8\)

The background of the grand jurors who considered Campbell's case in Victoria was different than that of the ones he would have faced in Nanaimo, but not as significantly different as might be assumed. In Victoria, the grand jury comprised six merchants, three accountants, a shipping agent, a real estate agent, a financial agent, and a retired man. In Nanaimo, there was a similar slant in favour of merchants — six of them, plus a real estate agent, a broker, and a stable owner. But there was also an underground miner, two mine surface workers (machinist and carpenter), and a mine stable boss.\(^9\)

Meanwhile, World War I continued. Allied armies in France were finally making advances against the Germans. At home, the federal government had made it illegal in April 1918 to publish or to publicly express adverse or unfavourable statements or opinions on the motives or purposes of the war effort "which may tend to arouse hostile feeling, create unrest or unsettle or inflame public opinion."\(^10\)

Wartime hysteria mounted in Victoria as Campbell was about to face his manslaughter charge of killing a well-known draft dodger who had publicly opposed the war. At a meeting in Victoria of the League of Patriots (soon to be renamed the Anti-Hun League) on 25 September, "forceful methods" were demanded against "Germans and Austrians who can endanger the winter coal supply of Canada by striking at the beginning of winter" in Fernie, BC. Rev. Arthur deB. Owen, rector of the Church of Our Lord (Reformed Episcopal) in downtown Victoria, said "enemy aliens" in the coal

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\(^9\) BC Archives, GR 1864, Grand Jury Roll, Rex v. Daniel Campbell, also microfilm reel B-9807 (1) and GR1904, Volume 3, Criminal Record Book, May 1917-May 1948, BC Supreme Court (Victoria); Nanaimo Free Press, 8 October 1918; Voters lists, Victoria and Nanaimo constituencies; City directories, Victoria and Nanaimo.

\(^10\) Victoria Daily Times, 18 April 1918; Phillips, No Power Greater.
mines should be made to work at the point of a bayonet under guard of re­
turned soldiers, and for 25 cents a day. “If these men won’t work let us get
some returned men with bayonets behind them,” said the rector. “They will
work then. There will be no need to use the bayonet.”

The Victoria Daily Colonist published an article on 26 September under
this headline:

Soldier Since Killed in Action Says
Slackers Will Wish They Had
Faced Huns.

In the article, a Private Watterhouse was quoted as writing in a letter to an
unidentified Victoria friend that “... I often wish these fellows who are stay­
ing behind could hear the verdict against them by the boys over here. We
are kept fairly well posted. These non-soldiers are not only slackers but are
keeping some returned soldiers out of a job who have certainly earned it
over here. But don’t worry. God help them when the boys get back. They
will wish they instead of their former comrades faced the Hun.”

At the same time, the federal government banned newspapers, tracts,
pamphlets, and books in “enemy languages” until the end of the war. These
languages included German, Magyar, Hungarian, Bulgarian, Turkish,
Russian, Romanian, Ukrainian, Finnish, Estonian, Syrian, Croatian, or
Livonian, except for works of a religious or scientific nature not containing
any belligerent objectionable matter. No meetings were to be held, except
those of a religious character, in “enemy languages” or in the Russian, Finn­
ish, or Ukrainian languages.

Thirteen organizations were declared unlawful including the Industrial
Workers of the World and various ethnic, social democratic, and Socialist
parties (but not the Socialist Party of Canada) on the grounds that their lit­
erature was “all of a revolutionary and Bolsheviki character.” The Com­
munists had seized power in Russia the previous November and soon
withdrew the country from the war against Germany. These two events
added Russia, which before the Bolshevik revolution was an ally against
Germany and Austria-Hungary but was now neutral, to the list of “ene­
mies.” Western countries (among them, Britain, France, Czechoslovakia,
United States, and Canada) dispatched troops to Russia to assist the
anti-Communist ‘Whites’ in the raging civil war with the Communist ‘Reds.’
In Canada, 4,000 troops were readied and would arrive in Vladivostok,

11Victoria Daily Times, 26 September 1918.
12Victoria Daily Times, 26 September 1918.
eastern Siberia, in October. Most of them would not return to Canada until June 1919.\textsuperscript{13}

The Spanish flu epidemic was spreading throughout the world, including Canada. It would claim 21,640,000 lives — more than twice the 9,700,000 combatant deaths in World War I, and more than the 15,600,000 combatant deaths in World War II. Estimates of the number of Canadian victims range between 30,000 to 50,000.\textsuperscript{14}

Such were the times in Victoria and the world beyond it when Justice Denis Murphy of BC Supreme Court addressed the thirteen grand jurors in \textit{Rex v. Daniel Campbell} at the fall Assize in the Victoria Courthouse on 1 October. He emphasized the care needed in such a case “in wartime when the passions of men are inflamed.” He spent a considerable time reviewing the Preliminary Investigation evidence, the circumstances and the manslaughter charge as a matter of law, emphasizing the serious nature of the case.

“This case has caused a good deal of excitement in this country and there is, therefore, all the more reason that it should be dealt with carefully,” he said. “Ordinarily, shooting a man constitutes murder, but there are some cases where this act does not constitute a crime. It is alleged in this case that the action by Campbell was taken in self-defence and that had he not killed Goodwin, Goodwin would have killed him.” Murphy explained self-defence, assault and the threat of assault. “It was alleged that such an assault had been made by Goodwin. Thus, in some cases, even where a man has been killed, there has been no crime committed. If it was proved that Campbell was an authorized police officer on his duty, Goodwin had no right but to surrender. If he did anything, such as pointing a loaded gun in such a way that Campbell thought he intended to use it, then he committed an unlawful assault. Now if a man is assaulted, he is justified in using force for self-defence. However, policemen are not supposed to use firearms except in the last extremity.”

Murphy said the \textit{prima-facie} evidence seemed to disclose manslaughter but he did not want the grand jury to form any conclusions as to the guilt of Campbell on the remarks made during his address. Murphy repeated several times that even when a man is killed, no crime may have been committed. He pointed to the “dead or alive” testimony from the Preliminary Investigation. “This evidence must be considered by you because it will tend to throw some light upon Campbell’s attitude of mind. Living as we do in a democratic country, the courts have to see that full justice is meted out. It would be a deplorable thing if a case like this were not investigated before a petty [sic: petit or trial] jury, unless a reasonable man could say that such a case needed no explanation. The facts must be so plain as to leave no ques-

tion in the mind of a reasonable man that it was absolutely necessary for Campbell to kill Goodwin. It is a matter of serious import to the community at large because under the present form of government of this country the integrity and fairness of the courts is, in the final analysis, a citizen's final appeal for his rights. It is more so in wartime when the passions of men are inflated. This is all the more reason why we should act with calmness and allow no right-thinking man to think that any fear or favour was shown.  

The grand jury retired in the late morning to begin hearing witnesses. The Bill of Indictment can no longer be found so it is not certain what witnesses were heard. But Murphy's review of the Preliminary Investigation, Constable Rushford's monthly report showing that on 25 September he served subpoenas on Dr. Millard, Decoeur, McNiven, Giovanni, Merillo, Cavallero, and Ioris, and a report in the Victoria *Daily Times* saying that numerous witnesses came to Victoria from Cumberland as well as Campbell's companions in the search for deserters — all this, taken together, indicates clearly that the grand jury heard the witnesses who were called at the Preliminary Investigation.

The grand jurors continued their deliberations until mid-morning on 2 October when they returned to the courtroom with their decision: No Bill. That was all the grand jury said or had to say. No reasons were given or required. Campbell received the decision with the indifference he had shown throughout the proceedings, it was said. Numerous friends and fellow policemen pressed forward to shake his hand. Justice Murphy issued a discharge. Campbell walked from the courthouse into Bastion Square a free man, leaving history to ponder whether justice was done, and whether it was seen to be done.  

15 *Victoria Daily Times*, 1 October 1918.

16 *Victoria Daily Times*, 2 October 1918; *Victoria Daily Colonist*, 2 October 1918.