

Copy

The accused are arraigned separately on all charges in the charge sheet. The accused do not object to any charge and tender separately pleas of "Not Guilty".

President to accused Pte. Howes, F.C.: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not sufficient opportunity to prepare your defence?
Answer: No

President to accused Pte. Atherton, E.L.: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not sufficient opportunity to prepare your defence?
Mr. Macdonald for Pte. Atherton, E.L.: Yes, due to the fact that there is one essential witness not available to give evidence. The alleged offence was committed on 24 Nov 44. It is a very simple charge and there should be some explanation for the delay in convening this Field General Court-Martial. At this date last week it had not been convened. I consider that the absence of Lieut. Morton is a serious matter for the accused, that he should not have been allowed to depart before this case was heard. I ask the Court to take into consideration his absence and I apply for a deferment on that reason.

The Prosecution in reply stated that Lieut. A.E. Morton had been sent home by the military authorities over which the Court had no control. His absence was regretted as he would have been one of the prosecution's chief witnesses, but it was solely due to the exigencies of the service, a fact that in these times of war the Court could hardly fail to appreciate. The reason for bringing these men to trial so long after the date of the offence was that at the time charges not so simple but far more serious had been laid, a Summary of Evidence had been taken and forwarded to the Judge Advocate General. It was upon instructions from the Judge Advocate General that the charge had been laid in its present form. A new Summary of Evidence had then to be taken and new documents prepared. Under the circumstances he did not consider the delay excessive.

The plea for ~~trial~~ deferment was disallowed.

The Prosecutor makes an opening address.

Mr. President, members of the Court, the facts in this case are simple. The Canadian Forestry Corps looks after the selling of certain fuelwood that belongs to the Ministry of Supply. The C.F.C. sells that wood to civilians and accounts to the Ministry of Supply for the sale price. The accounting is a very simple form of accounting. Orders are received from the civilians and they are put in a book. When the time comes a cash sales slip is made out in triplicate. The third copy is retained by the Company concerned. The original is given through the mill Sgt. to the working party who delivers the wood to give to the customer upon payment as a receipt, and the duplicate copy is kept by the Company until the money comes in and is forwarded to the Ministry of Supply with the money. The original copy contains the name of the individual purchaser, his address, quantity of wood and the price. This is what happens. When the working party delivers the wood they take the money and deliver the original copy of the cash sales slip as a receipt for the money. In this particular instance the two accused were members of the rear party at Glentanar Camp. Mr. Allen of Luton Cottage, Aboyne, ordered some wood. In due course a cash sales slip was made out, given to the mill Sgt. He in turn gave it to Pte. Atherton. They loaded their wood. They took it in to the proper address, and found his daughter at home. They told his daughter that more wood had been brought than ordered. The price would be higher. She accepted their statement that there was more wood, paid the extra sum of money and was handed the