

3 The evidence was sufficient to have found the accused guilty of the alternative charge to the first. The finding on the first charge not being substantiated by the evidence, however, should be quashed.

B.

1. I disagree with the opinion expressed above that the finding of "Guilty" on the first charge should be quashed. In my opinion the finding of the court is amply supported by the evidence.

2 The evidence of the first charge is that the stolen goods were found within 24 hrs after they were stolen in a locked barrack box under the accused's bed. The accused, who was the only witness called by the defence, denied that the box was his or that he had ever opened it. There was abundant evidence by the prosecution witnesses, however, to establish that the box was, in fact, the property of the accused.

3 I do not agree with the opinion in para 2 of the preceding minute that the evidence established that the accused had no opportunity to take the articles from the canteen stores. The evidence is that the accused was working behind the counter where he had access to the stores. The accused admits that he was left alone but only for one or two minutes. The evidence of Cpl Robinson does not go so far as to say that he had the accused under observation at all times. Even if he did say so, the court would not have to accept his evidence on that point. In any case, it was open to the court to consider that the accused may have had help from some accomplice in getting the merchandise out of the canteen.

4 In this case the doctrine of recent possession was applicable and in the absence of a reasonable explanation by the accused as to how the stolen goods got into his locked barrack box it was open to the court to find him guilty of the theft of the articles.

5 In my opinion all the findings of the court are supported by the evidence and the proceedings should be passed.

"L J Brody"
(L J Brody) Capt
JAG Rev 1

29 May 45.

Conviction valid
30 May 45.

"D D Carrick" Lt Col
AJAG.