

clearly states that a copy of the Summary of Evidence must be delivered to the accused gratis by a responsible officer not less than twenty-four hours before his trial, unless under R.P. 104 a written direction is made by the Convening Officer that this cannot be done due to military exigencies or the necessities of discipline. Such an order does not appear in these proceedings. Under the circumstances, therefore, it is considered that the Court should have allowed this particular objection and granted an adjournment. It does not appear, however, that the accused was prejudiced in his defence or that substantial injustice was done. Therefore, pursuant to R.P. 56, the confirmation of the Finding and Sentence may stand. I would refer you to the last clause of that Rule, however, as there would appear to have been a negligent disregard of the Rule in this instance.

- (7) I feel I should comment on the statement made by the accused on page 10 of the proceedings that he had been given seven days C.B. "without smoking or talking" by Capt. Talbot. If this statement is correct, I consider that the attention of Capt. Talbot should be drawn to the provisions of K.R.(Can) para 474, which forbids any system of punishment which is, in any respect, at variance with the Regulations.

- (8) The Summary of Evidence should have been enclosed with the proceedings even though the plea was "not guilty" (see M.M.L. page 770, para 26).

3. When the points above noted have been brought to the attention of the Officers concerned, would you kindly return the proceedings with the Summary of Evidence to these Headquarters for custody.

SPS
 f Brigadier,
 Judge Advocate-General.