

- Q. How were they turned in?  
A. They were tied together. There is an exhibit report on it, sir, but I sent it to London.
- Q. The cigarettes shown to you as Exhibit "TWO" resemble the packets taken from Stanley that day?  
A. Yes sir. I knew they were marked and I compared the markings on the two packets with the ones on the packets taken from under the stairs.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B)

SIXTH WITNESS Major D.E. Jones, Legal Officer, \* (Gen Rft) Wing,  
PROSECUTION 1 Cdn Repat Depot, the Prosecutor, having been duly sworn, states:

On the 12th Aug 46 I was requested by my CO to assist the Officer from 7 CAWC to prepare a Summary of Evidence in the case of Spr Stanley. The same afternoon Lieut Lawton of 7 CAWC came to my office with the accused Spr Stanley and the exhibits and documents to do with the case. He handed over to me two full cartons of BC cigarettes each with 12 packages of 20. Each individual packet was marked with a small slit in the cellophane at the bottom and a blue ink pen mark placed on the edge at the bottom of the package which I identify to the Court as Exhibits "ONE" and "ONE A". He also handed over to me two packets of BC cigarettes 20's which were marked similarly to the two cartons which I now identify to the Court as Exhibit "TWO".

Judge Advocate

- Q. When Mr. Lawton handed these various items over to you was Stanley present?  
A. No sir, he was in the guard room.

President of the Court

- Q. Since they were handed over to you on the 12th Aug were have these exhibits been?  
A. Locked in my safe in the office to which there are only two keys. I have one and my Sgt has the other. I have seen them every day and have brought them here today. They have been in my possession since the 12th.

THE PROSECUTION IS CLOSED

Submission by the Defending Officer

The accused is being charged with stealing property of L/Cpl Atkinson and of being in improper possession of property of L/Cpl Atkinson. There has been no evidence produced before this Court today to prove in any way that these cigarettes were the property of L/Cpl Atkinson. Note 6 to Sec 18 of the Army Act says, "Where an accused is charged with theft, the ownership of the property alleged to have been stolen should be clearly proved in evidence, . . . ." The Defence contends that the ownership of this property has not been proved to be the property of L/Cpl Atkinson and therefore makes a motion that the charges be dismissed. Both charges refer to the property of