

MEMORANDUM

TO: DEPUTY MINISTER

Department of National Defence

HQC 55-M-1360 Adm 3(b)3

OTTAWA, 25 Oct 44

STANDING COURT-MARTIAL
K.573605 Pte McLEAN, C.H.

The purpose of this submission is to recommend that the provisions of Article 85(2) FR & I be invoked against this soldier and that he be not entitled to draw pay for the period during which no military service was rendered.

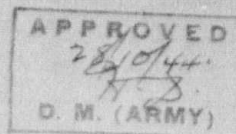
2. The facts, briefly, are:-

- (a) This soldier was charged with desertion from 0200 hrs 16 Sep 41 until apprehended at 0905 hrs 4 Aug 44.
- (b) The Court found the accused not guilty of desertion but guilty of absence without leave and sentenced him to detention for one year.
- (c) The said finding and sentence was quashed on the advice of the Judge Advocate-General who, in his opinion, considered that this soldier was improperly called up for service under National War Services Regulations, 1940, when this soldier was not actually subject to these Regulations by reason of his age. The soldier therefore, in the opinion of the Judge Advocate-General, was not by reason of this improper enrollment subject to military law.

3. The Officer Commanding the accused certifies that no military service was performed by this soldier during the period 16 Sep 41 to 4 Aug 44 and recommends that the provisions of Article 85(2) FR & I be invoked against him for the said period. G.O.C.-in-C., Pacific Command, concurs in this recommendation (see Flag "A").

4. It is therefore recommended that, pursuant to Article 85(2) FR & I, K.573605 Pte. McLEAN, C.H. -

Forfeit pay and allowances for the period
16 Sep 41 to 4 Aug 44, both dates
inclusive, during which no military service
was rendered.



[Signature]
R. C. Spencer
Brigadier
Acting Adjutant-General

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